

THE
OFFICES
AND
DUTIES
OF

Constables, Borshol-
ders, Tything-men, Trea-
surers of the County-stock,
Overseers for the Poore,
and other lay-Mini-
sters.

Whereunto are adjoyned the
severall Offices of Church-
Ministers and Church-
wardens.

By WILLIAM SHEPPARD, of
the Middle Temple, Esq.

L O N D O N,

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FEB 8 1912



*To all his loving
Country-men.*

MY deer Coun-
trimen whose
good & wel-
fare, as I de-
fire from my heart, so I
take my selfe bound to
procure as I may) take-
ing into my considerati-
on, how commonly (ne-
cessitie so requiring) the
most of you are called,
and enjoyned to take

The Epistle.

upon you the Offices of Constables , Church-wardens, and the like offices, that there is scarce a man amongst you (at least of the meaner rank) but sooner , or later he is forced to serve in all or some of them. And considering withall the manifold parts and branches of the Authoritie and duty of these offices , how much is required and expected of men that are called and appointed thereunto , and how through the lack

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lack of, or the neglect of
the use of the helps that
are yeelded in this mat-
ter, the most of you are
very unskillfull in the
points and matters be-
longing to the duty of
your places: whence it
happeneth that some-
times (on the right
hand) too confidently
you exceed your Au-
thority, and adventure
to doe that, for which
you have no warrant; by
means whereof, the ho-
nest officer is sometimes
punished, and falleth in.

The Epistle.

to the hands of the evill
man, the lewd and mer-
cileſſe malefactor here-
by eſcaping his deſerved
punishment; and more
commonly, on the left
hand (for he that goeth
in the darke, knoweth
not whither he goeth)
too fearfully, you goe
not ſo farre as your au-
thoritie, nor doe ſo
much as you have charge
to doe; ſo that albeit
theſe Offices be daily ex-
ecuted by many a-
mongſt you, yet few of
you know the extent of
the

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the Authoritie and duty thereof. The which cannot but be a discouragement to the officer, and an incouragement to the delinquent, and one cause amongst others why Justice is so much neglected amongst us. And herein I must needs say, you are little beholding to us Lawyers, who have taken great care and pains (and that of late) to compile and set forth many Treatises for the helpe and direction of
A 4 Sheriffes,

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Sheriffes, Iustices of the
Peace, Stewards of
Courts; and others
(who in common pre-
sumption are men that
have more abilitie, and
lesse need) in the exe-
cution of their Offices,
and forthe helpe of these
officers (who common-
ly are men that have
lesse abilitie, and more
need) have set forth but
one onely Treatise, and
that now more then
20. yeers sithence. The
which worke (though
it were excellent in that
time)

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time) yet because since
that time, some Laws are
changed, some are new
made, and some things
also are newly brought
to light, as touching
these offices, therefore
it is not so sufficient a
Guide now, as were to
be desired, wherefore I
have much wished, and
waited to see by some
other man, better fitted
and prepared, a more
ample and compleat di-
scovery of the duties
of these officers, accor-
ding to the Laws at this
day.

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day. The which because
I see not, I have my self
(though the most unfit
of all others) adventu-
red and attempted to
doe in this Treatise;
wherin you have, though
weakly, yet plainly dis-
covered, and in some
good measure set forth
the whole offices of the
High Constable, Pettie
Constable, Treasurers
of the County Stock,
Overseers of the Poore,
Surveyors of the High-
wayes, Master of the
House of Correction,
and

The Epistle.

and of Churchwardens,
as the same are and stand
at this day by the Lawes
and Statutes in force, to
the end that such as shall
hereafter undertake any
of these offices, may the
better, and more fully
understand themselves,
and so may the better
endeavour to execute
their Offices, according
to their Oathes, where-
by they shall the better
performe their duties to
God, their Prince, and
Countrie : and hereun-
to also have I added
— some-

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something (by occasi-
on) touching the great
Office of the Church-
Minister. In the setting
downe of which things
also, you shall finde the
effect of many of the pe-
nall Statutes now in
force, and of most com-
mon use, things needfull
to be knowne of them
that have not money to
buy, or leisure to reade
the books at large. All
which, as I intend, so I
hope it will prove to the
weale publike, and com-
mon good of my Coun-
trie,

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trie, and you my Country-men. And that it may doe so, I wish that every man amongst you, that is likely to be called to any of these Offices, be well read in these things, and that therefore he reade the same over and againe, and especially then when hee is called to the office, and is in and about the execution thereof, That then he have this Book alwayes in his pocket, that by the helpe thereof, and Table annexed there-

The Epistle.

thereunto (framed especially for that purpose) he may readily finde whatsoever he desireth to know concerning the duty of his place. And for your further assurance , this know, that as I have not trusted to my selfe altogether in this work , so you shall not trust me altogether therein. And therefore what you find here written to be your duty, doe it, and forbear not, knowing that the worke you are about, is

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a work of Justice, which
is a work of God : and
curſed is he that doth the Jer. 48. 10.
work of God negligently.

And what you finde
here , you have warrant
to doe; doe it, and feare
not, for it is written, *He*
ſhall give his Angels
charge concerning thee, to Ps. 91. 11.
keep thee in all thy wayes.

And ſo not doubting of
your loving acceptance,
I reſt,

Your Loving friend,

and Country-man,

W.S.

And so not doubting of
your loving acceptance,
I remain your obedient
servant,

Wm Lloyd Garrison

1911



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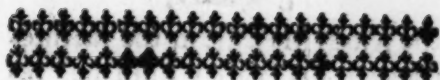
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Of



C H A P. I.

*Of Constables, Tithing-men, and the
like Ministers, and their Offices.*

statute of
Winchester.

1. Lamb. of
the dutie of
Const.

Finches law

336. Sir

Tho. Smith
de Republ.

lib. 2. cap. 15.

12. H. 7. 18.



O omit to shew the Etymologie, and diverse Acceptance of the word Constable, the Antiquitie and Original of the office of the Constable, we are now to treat of, and the divers kinds of Officers of this name in the Kingdom, and to take up so much onely as may serve to our present purpose. The Constables (whose offices we intend to speak of) are said to be officers of the Kingdom, appointed for the maintenance of the peace thereof, and to be attendant to Court Leets, Justices of Peace and Coroners, for the execution of their Warrants within their Precinct and liberty. And M. Lambard saith, the name of a Constable in a Hundred, or Franchise, doth mean that he is an officer that supporteth

Num. 1.
What they
are, and
how many
kinds of
them there
be.

B the

Constables,

the Kings Majestie in the maintenance of his Peace within the Precinct of his Hundred or Franchise. And of these Constables, there are now said to be two sorts. The first sort are the High Constables, which are for the whole Hundred, Lathe, Rape, or Wapen take; the which doe comprehend many Parishes, Tithings and Villages; And therefore these officers in respect of Place, have a more large command then Petie Constables have. These Officers were ordained by the Statute of *Winchester*, which doth appoint (amongst other things) That for the better keeping of the Peace two Constables in every Hundred, and Franchise shall make the view of Armour. And they are called High Constables, in comparison of the Constables, or pety Constables that be in the Townes or Parishes within their Hundreds or Franchises, whose duty is likewise to maintain the Peace within the severall limits of their own Towns or Parishes. And of these High Con. there
were

were to be, and were anciently two in every Hundred, but at this day there is but one in many Hundreds. The other sort of Constables are the pety Constables, or the under Constables, who are only for some part, as for a Town, Parish, Village, Tithing, or Hamlet within the Hundred, (for every Hundred hath his High Constable, and every severall Tithing within the Hundred hath his Pety Constable, Tithingman, or the like within it) so that the command of the Pety Constable is onely in one part of the precinct of the High Constable, but otherwise for his authority, by the ancient Common Laws his office, as far as his Precinct doth extend, is the same with the office of the High Constable over the whole Hundred. The Tithingman, Borsholder, Borrow head or Headborrow, Thirdborrow, and Chiefepledge, or by whatsoever names they be called in any Towns, Parishes, Tithings, Borrowes, Hamletss or other places, and their officer

are in effect in most places but one and the same: For in some Counties this officer is called by one name, and in other Counties by another name, as in *Kent* he is called Borsholder, in *Warwick* shire Third borrow, and in other places he is called Constable, and in some places he is called Tithingman, for he that is called and sworn the Tithingman of any place is in effect the Constable of the place, and therefore in such places for the most part there is no other officer called or sworn by the name of a Constable. For as pety Constables about the beginning of the Reign of *Ed. 3.* were devised in Towns and Parishes for the aide of the Constables of the Hundred, so afterwards Borsholders, and such like were used as pety Constables within their own Tithings and Borrowes. But if it be so (as it is in some few places) that there is one Constable for the King, and there is also one or more Tithingmen, and the Constable doth execute

See after-
wards, num. 3

execute all the office, and the Tithingmen are but as attendants on him, and seem to have but little power: Or if it be so that there are two or more Tithingmen, and one of them is for the King to execute the office of the Constable, and the other is alwaies chosen at the Leet, and this Tithingman time out of minde hath been used to doe nothing about the office of the Constable, but to attend upon the Leet onely, in these cases the custome of the place may and must be continued, and such Tithingmen shall not be compelled to doe more then by custome they have been used to do. Howbeit otherwise, and in all other places all these officers are comprehended within this word Constable, and all these offices are contained within this office.

Experientia.

The High Constables are and may be chosen and made either by the Justices of the Peace at their quarter Sessions, or by the Steward of the Leet himself, or by the Presentment of the grand Inquest in

Num. 2.

How they are chosen and made. And what manner of persons must be chosen.

the Leete as the course and custome of the place is. The pety Constables, are, and may most properly be chosen by the Steward of the Leet himself, or the Presentment of the Inquest in the Leet: but these also are chosen by the Justices of the Peace at their quarter Sessions. And all these officers are, and may be, chosen for one or two years according to the custome of the place. And when they are chosen at the quarter Sessions or at the Leet, they doe usually take their Oaths there where they are chosen; or they may, and sometimes they do take their oaths before one Justice of Peace at another time and place. A pety Constable also in some speciall case may be made and appointed by one Justice of Peace and that out of Sessions, as in case where one that is chosen Constable doth refuse the office, or one that is made Constable is removed out of his office, or is dead; in these cases in respect of the necessity, and for a present supply, one Justice of Peace alone

Dalt. Just. of
Peace. 37,
38.

So resolved
the Judges.

lone may elect and swear a new officer, and then especially when the quarter Sessions, and the Leet are far off, and not to be kept in a great time after: and as touching this matter, these things are to be known.

Co. 3. 41. 42.
Fitz. off. Just
of p. 201.
Lamb, in the
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10, 11.
Dalt. Just. of
Peace, 322,
323. 18 H. 6
13. 21. E. 3. 2.
12 H. 7. 18.
2 H. 4.
15. Marb.
cap. 10. Fitz.
Leet in toto.

1 Where the custom of the place is for the Jury in the Leet to choose these officers, there they may, and must be chosen still; for this is a good way and custom, and the best way of choosing of these officers; but where the custom is otherwise there it may be otherwise.

2 Which way soever they be chosen, there must be great care had that those that are chosen be fit persons to execute the office: and herein these things must be observed.

1 The person chosen must be a Lay and not a Clergy person, for all Clergy and religious men are exempt from this service as they are from attendance at the Leet, and therefore if any such person shall be chosen to this office, he may get himself discharged by a writ; whereof see afterwards in cap. 8. 2.

The

The partie chosen, as he must be a lay person, so he must be a lay man, not a lay woman. And therefore a widow or a maide, albeit she keep house of her selfe, and dwell in a house, whose owner hath been used to serve in this office, is not to be chosen to this office, no more then she is to doe suit to the Leete.

3 The partie chosen, as he must be a man, so he must be *idoneus homo*, .i. a fit man, and that First for his knowledge, that he doth in some good measure understand what he doth, and ought to doe. And therefore a man that is *non compos mentis*, as an Ideot, or mad-man, an Infant, or the like, cannot be a fit man.

2 He must be fit for his honesty, that he may be likely to execute his office truly, without ill affection, or partiality. And therefore it seems, a scandalous liver, a malicious and contentious man cannot be a fit man.

3 He must be fit for his ability of body and estate. And there-

wherefore an old, weake, sicke, or otherwise impotent man, or a poore needy man, that lives only by his labour, cannot be a fit man. It was therefore by special direction from the King, in *Anno Domini* 1630. given in charge, that the Constables in all Parishes should be chosen of the abler sort of parishioners, and that the Office should not be put upon the poorer sort: the which, if it were well observed, would no doubt, much further the execution of Justice through the Realme. And if because the common course is every where, to put these offices upon the meaner sort of men, the more able sort doe think themselves thereby exempted, they are therein much deceived. For it is not much to be doubted, but that all persons that are bound to doe suit in the Leet, are bound to serve in these offices, that are after a sort appendant to the Leete:

C

and

Constables,

and therefore if any such person be called and chosen thereunto, he must and will be compelled to execute the same. Howbeit it is deemed an unfit and indiscreet part, to elect any to these offices that in respect of their other offices, Callings, or Professions are presumed to have so much other imployment, that they have not leisure to attend upon this, so much as is required. And hence it is that Justices of Peace, Sheriffs, Lawyers, Attorneys, and such like persons, are seldome or never chosen to these offices. For if any Steward, or Iurie in a Leete should be so indiscreet, as to chuse any such men to these offices, the Justices of the Peace, upon complaint to them hereof, will no doubt, be so discreet, as to discharge them againe, and elect others in their place, for he cannot be fit for that office, which he hath not leisure to waite and attend upon. But otherwise it is
not

not onely lawfull, but convenient also that these officers be chosen in all places of the abler sort of men. And therefore it hath been of late resolved by the Iudges, That if a man make himselfe one of the Kings servants, extraordinary, that this will not exempt him from the execution of this office, but that he may be made Constable notwithstanding.

4. An Infant, under the age of 21. yeeres, may not of right be compelled to serve in these offices. And yet if such a one be chosen, and sworne, it seems he may execute the office, as another man may doe. And therefore if a young man, of the age of 20. yeeres, or thereabouts (especially if he be such a one, as hath the growth, wisdom and courage of an elder man, as sometimes it falleth out) be chosen to this office, he shall doe well to take it upon him, and execute it. An old man also of 60. yeeres of age

or thereabouts (especially if his strength of body and minde, be not much abated) may be compelled to serve in these offices.

5 If a man live within one Hundred or Tithing, and have land onely within another Hundred or Tithing; hee may not be chosen to serve in this office, in the place where his land is, for if he have no house upon his land, it seems neither he nor his Tenant is bound to serve in these offices at all, in respect of the land. For men are bound to serve in these Offices in respect of their persons and residency, and not in respect of their land. But if he have a house upon his land, and a Tenant dwell long in it, and he be a sufficient man, and able to serve the office, he may be chosen, and made to serve the office, but not the Land-lord, for perhaps he may be chosen to this, or some other office in the place where he dwells, and a man can
doe

doe service with his bodie but in one place at one time. And yet if the cause be so that a man hath two severall houses in two severall Precincts, and within severall Leetes, and he doe live sometimes at the one house, and sometimes at the other house; in this case, he may perhaps be made an officer at either of the Leets, within either of the places, if he be there dwelling at the time when the Leete is kept, for a man may doe corporall service at two places at severall times. But if two Tithings be within one Leete, and one man hath houses in both the Tithings; in this case it seemeth doubtfull, whether, albeit he doe live in the one Tithing, he may not be compelled to serve in this office, for his house in the other Tithing, especially if the Tithing be neere, and he keep no Tenant in his house fit to undergoe the office, when it shall come to his turne: where-

in, as in all other such like cases, a due consideration must be had of all circumstances.

3 By that which hath been said, it may appeare then how unreasonable a thing it is, that these offices should follow the houses, or that two or three in a Tithing, and no more, should alwayes execute the same (as in some places hath been used.) And therefore it hath been well and wisely altered by the order of the Justs. in some, if not in all places.

Remo-
ving of a
Constable.

4 If there be a man unfit for any of the causes aforesaid, chosen and appointed to this Office in a Lecte, either by the Stewards nomination, or by the Presentment of the Jurie, or by one Justice of Peace onely out of Sessions; such a man may be removed, and discharged againe by order of the Justices of the Peace at their Sessions, and another man more fit, may be by them then and there elected and sworne in his

his roome that is so removed. But if the man elected and made Constable in a Leete, be a fit man, the Justices of the Peace may not remove him, and appoint another. And so hath it been agreed by the Judges. And yet if the Justices of the Peace shall remove such a man chosen in a Leete that is a fit man, it seems there is no remedy, but by complaint to the Lord chiefe Justices, or the Judges of the Circuir, &c. If the Constable be chosen by the Jurie in a Leete, and the man chosen be unfit, and the Steward of the Leete doth perceive it; in this case it seems the Steward himself may elect and swear another man more fit, and refuse and discharge him that is so chosen by the Jurie. And it is held also, that in default of the Leete, or otherwise, where there shall be just cause, every Iustice of Peace, *Ex officio*, may remove the old Constable, and choose and swear

Constables,

a new one, and that for this purpose he may send forth his warrant to require such person to come in and take his oath before such Justice of Peace. Also there is (as it seems) another way of discharging and removing of this Officer by a warrant from the King, to the Sheriffe of the County, and to the High Constable of the Hundred. Whereof see a President in *Daltons Justice of Peace. fol. 322.*

Customs.
Prescripti-
on.

5 No Customs or Prescripti-
on to exempt any man not ex-
empted as before, or to warrant
an undue Election, contrary to
the Rules before laid downe,
will availe, or shall be allow-
ed unto any person or Tithing.

6 If a man be chosen to this
office in a Leete, and he refuse to
take the charge thereof upon
him, he may be fined for this
contempt in the same Leete. And
if he be chosen at the Sessions, or
by one Justice of the Peace, out of
him,

Sessions, and he refuse to take his oath; he may be indicted and fined at the Sessions for this contempt.

7 A Constable chosen and sworne, may make what Deputy-
 ties he will under himself, to execute his Office, for there is no doubt, but in time of sicknesse, and at other times also, he may if he will, execute his office by Deputy; but the Officer himselfe must expect to answer for all the misdoings of his deputies. And if one man be chosen an officer, and he desire to have a deputy, and to have him sworn and allowed, if the deputy be sufficient, and be allowed and sworn; in this case the deputy, and not the other is the officer; and therefore the deputy must answer for himselfe and his doings, and not the other for him. But the making of a Deputy in this case, is rather by toleratiō thē by law. And so hath it been delivered by the Judges.

These Officers, and their Offices,

Nam. 3. fices, as they had a farre greater
 Their au- authoritie then now they have,
 thority and so have they been of farre greater
 Duty. account then now they be. For
 by the ancient Common Lawes,
 before there were any Justices of
 Peace made, the Constables of
 every Village had a kinde of
 Rule within the same Village, *5 Ed. 4. 2.*
 and were to keep the Peace
 there; And therefore the Con-
 stable was called the Ruler of the
 Village. And it is thought, that
 at that time the Authoritie and
 Account of these Officers was
 much like to the authoritie and
 account of the Justices of the
 Peace at this day. And there-
 fore they had then the same Ti-
 tle of Conservators of the Peace
 given unto them, which is given
 to the Justices of the Peace at
 this day. *Sed tempora mutantur,*
& nos mutamur in illis. For this
 is vanished now, and there is but
 little signe of it; for at this day,
 they doe for the most part, but ex-
 ecute

ecute the commands of others. And yet somewhat there is remaining, as the footsteps of what formerly they had. The which, to set forth, is our labour in this place. And herein we shall observe this order.

First, we shall shew what all Constables, Tithingmen, Bors-holders, &c. may and must doe, and what is their common, and equall dutie and authoritie. And then next what the High Constable may and must doe more then the Pettie Constable, &c. and wherein these Officers have a distinct and severall duty one from another, wherein we shall finde, that for some things they are to doe in the execution of their Offices, the Law gives them authoritie and charge to doe them *Ex Officio*, and by the duty of their place, without any command of others. And for other things they are to doe, they must doe them by, and under the au-
tho-

thoritie and command of others, without which they need not, nor may justifie the doing thereof. And we shall also finde, that some parts of their Offices are derived from the ancient Common Laws of the Kingdom; and other parts of their Office are derived from certaine Acts of Parliament newly made, whereby they are further enabled or charged then before they were by the Common Law. But before we enter upon these things, it is needfull that we observe what *Mr. Lambard* hath noted, That every of these Borsholders, Tithingmen, Borowheads, Headborows, Thirdborows, and Chiefe Pledges hath two severall Offices at this day: the one being his ancient and first Office, and the other his latter made office. His first office began thus, by the ancient Laws of this Realme (before the comming in of King *William the Conquerer*) it was ordai-

*Lamb. in the
duties of
Const fol. 6.*

dained for the more sure keeping of the Peace, and for the better repressing of Theeves and robbers, that all free-borne men should cast themselves into severall companies, by ten in each company: and that every of those ten men of the company should be surety and pledge for the forthcomming of his fellows, so that if any harme were done by any of these 10. against the Peace, then the rest of the Ten should be amerced, if he of their company that did the harme should flie, and were not forth comming to answer to that wherewith he should be charged. And for this cause, these companies be yet in some places of *England* called Boroës, of the word Borhes, Pledges or Sureties: albeit in the Westerne parts of this Realme, they be commonly named Ti-things, because they containe the number of ten men with their families. And even as ten
times

times ten doe make an hundred: so because it was then also appointed, that ten of these companies should at certaine times meet together, for their matters of greater waight, therefore that generall assemblie, or court was, and yet is called a Hundred. And it was then also ordained, that if any man were of so evill credit, that he could not get himselfe to be received into one of these Tithings, or Boroës, then he should be shut up in prison, as a man unworthy to live at libertie amongst men abroad. And where as every of these Tithings, or Boroës did use to make choice of one man amongst themselves, to speake and to doe in the name of them all, he was therefore in some places called the Tithingman, in other places the Boroës Elder (now called Borsholder in some places, in other Places the Borohead, or Headborow, and in some other places the Chiefe Pledge,

Pledge, which last name doth expound the other three that are next before it : for Head or Elder of the Boroes, and chiefe of the Pledges be all one. And in some shires, where every Thirdborow hath a Constable, there the officers of the other two be called Thirdborows. Moreover in these Tithings, or Boroes, sundry good orders were observed; and amongst others; first, that every man of the age of 12. yeeres should be sworne to the King: then, that no man should be suffered to dwell in any Towne or place, unlesse he were also received into some such suretiship and Pledge, as is aforesaid.

Thirdly, that if any of these Pledges were imprisoned for his offence, then he ought not to be delivered without the assent of the rest of his Pledges. Again, that no man might remove out of one Tithing, or Boroe, to dwell in another, without lawfull war-

warrant in that behalfe. Lastly that every of these Pledges should yeerly be presented and brought forth by their Chiefe Pledge, at a generall Assemblie for that purpose, which at this day is called, *The view of Frankpledge*. And of this ancient office, there is yet some shew in our Leets or Law-dayes, and well were it for us, if the very substance thereof were thoroughly performed at this day. The latter office of these officers is in manner all one with the office, of a Petty Constable. Now for the opening of things concerning all these offices of Constables, &c. these generall Rules must first of all be observed. That whatsoever the Law doth require of these officers, by the duty of their place, that it doth give them authority to do. And whatsoever the Law doth give them authority to doe, that for the most part, the Law doth enjoin them
by

by the duty of their place to doe.

Dalt. Just. of
P 28. 296.
Fitz. Just. of
p. 30. Lamb.
Just. of P.
240.

a Whatsoever any other man What eve-
may doe in those things, where- ry man
about the Office of the Constable may do of
is conversant, the Constable may the Const-
much more doe. And therefore office.
a Constable may without doubt, Affraiors,
part affraiors, and keep them a-
sunder in a Room of his own, or
of another mans house, for a time,
to prevent mischief. And if he
see one comming with a Weapon
drawne, or the like, intending to
take part in the Affray, he may
lay hands on him, and stay him.
And he may arrest and imprison Arrest.
one he doth know or suspect to
have committed a felony, or Felons.
one that is apparently about to
commit a felony, or one that hath
dangerously wounded another,
or Night-walkers, that are dan-
gerously suspicious, or one that Night-
keepeth or useth any Gunne, &c. walkers.
contrary to the Statute, or the
like; for in all these cases, any o-
ther private man that is no Offi-
cer,

cer, may do the same, & justify it.

Num. 4. The authority and duty of all these Officers by the Common Law, consisteth much about the Peace of the Kingdom: and herein in three things. First, in foreseeing, that nothing be done that tendeth either directly, or by means to the breach of the Peace. Secondly, in quieting or pacifying those that are occupied in breach of the Peace: And thirdly, in punishing such as have already broken the Peace. And here least any man should be deceived in the not understanding of what is meant by the breach of the Peace; it must be known, That by the breach of the Peace is understood, not onely that fighting, which wee commonly call the Breach of the Peace, but also that every Murder, Rape, Manslaughter, and felonie whatsoever, and every Affraying, or putting in feare of the Kings people, whether it be by unlawfull wearing

1. To prevent the breach thereof

Breach of the peace, what it is.

10 Ed. 4. 17, 18.

1 H. 7. 7. Lamb. on the Const. duty, 13.

See the Const. oath in Kirch. 47.

ring

ring of Armor, or by assembling of people, to doe any unlawfull Act, are taken to be disturbances, or breaches of the Peace.

Stat. of
Winchester,
13 Ed. 1. c. 4.
3 Ed. 3. c. 14.
13 H. 7. 10.
Fitz. off. of
Just. of P.
200.
1 H. 7. 7.
Broo. Tref.
432.

For the better preventing of the Breach of the Peace, and that nothing be done against it, any one of these Officers may, *ex officio*, and of his owne Authority, by night or day, arrest suspected persons, that walke in the night, and sleep in the day, or haunt in Bawdie-houses. For if a Constable be informed of a lewd man and woman that are together, and about to be incontinent and lewd, he may take with him so many of his neighbours, as hee will, and arrest the same man and woman.

Num. 5.
Against
suspect
persons, as
Nightwal-
kers, and
the like.

Bawdrie.

And the better to apprehend such persons, they are to see and take care that Night-watches be kept according to the Statute of Winchester (that is to say) That two, or three, or more in every Towne, and according to the

Watch
and Ward.
The duty
of watch-
men.

See the Con-
oath. Kitch.
47, 48, 49.

Night-
walkers.

Arrest.

Hue and
Cry.

quantitie of the place, be appointed and charged to be, and be [from Ascension day, till Michaelmas day] all the night long, from Sun to Sun, in some convenient place of the Towne, &c. to see what suspicious persons [as Rogues, Vagabonds, Ewesdropers, Scouts, and the like] doe walke in the night. And for this cause the watchmen, if they meet with any man, are to pose and examine him, and if he finde him suspicious, they may keepe him in prison untill the morning, and then bring him to the Officer, who is to carry him to a Iustice of Peace, to be examined [or as some say, may deliver him to the Sheriffe.] And if there be no cause of suspicion, the watchmen and Constable are to let him goe. And if any man resist them, and will not be examined by them, but breake away from them, the Constable may cause Hue and Cry to be sent after him, for the apprehen-

Stat. 3. Ed. 3.
cap. 14.
Fitz. office
of Just. of
P. 203.

apprehending of him, and upon such a Hue & Cry any man may arrest him. And if any suspicious persons, called Roberdsmen, Drawlatches, and Wasters goe about, the Constable must arrest them, and deliver them to the Bailiffe, if he be within a Franchise, and to the Sheriffe, if it be within the Guyldable, to the end that they may be imprisoned untill the Iudges come to deliver them. Also these Officers may (and then especially, when there is any speciall cause) appoint Wardsmen by day, for the same end, that the watchmen by night are appointed. And these watches and wards, the Justices and Constables may enlarge, and abridge to more or lesse, according to their discretion. And so is it said to be of late resolved by the Judges. And sometimes there is a speciall direction given by the King herein; As it was in *Anno Domini*, 1630. That watches by

LD 3

night,

night, and warding by day, for the apprehension of Rogues, and for safetie and good order, shalbe appointed in every Towne and village.

Night-
walkers.

7 In an Action of Trespasse of Assault and batterie, the Defendant pleaded, that there were divers felonies committed in those parts where he dwelt, and he being watching in his house, came into the high street, where the Plaintiffe was at eleven of the clock in the night, and the Defendant came unto him, and laid his hands in peaceable manner upon him, to see his face, and when he perceived he was a true man, he left him, and departed. And this was allowed to be a good Justification, for by the Statute of *Winchester*, watchmen may arrest Night-walkers, and may appose them, from whence they come, and what they be: Also any other man may arrest Night-walkers, because it is for the

the good of the Commonwealth.

Stat. 2 Ed. 3.
cap. 3. 7 R.
2. c. 8.
Fitz. of Just.
of p. 202.

See the
Const. oath
Kitch. 47.

- If any person whatsoever (except the Kings Servants & Ministers, in his presence, or in executing his Precepts, or their offices, or such as shall assist them, and except it be upon Hue and Cry made to keep the Peace, and that in places, where Acts against the Peace doe happen) shall be so bold, as to goe or ride armed by night or by day, as to carry any Dagges, or Pistolls, or to be apparelled with privie Coats, or Doublets in Faires, Markets, or any other place, and if any doe so; or if any great assembly, Ryot, or Rumor be made in any outragious manner, in nature of an insurrection; in the first of these cases, these Officers may and must take their Armour from them, and seise it to the Kings use, and arrest the parties, and carry them to Gaole, there to abide during the Kings pleasure; And in the last of these cases, they may and

Against
persons
that ride
armed, or
make In-
surrection.

Arrest.

Constables,

must take with them the power of the County, and suppress them, and arrest the offenders, and commit them to Prison.

Num. 9.
Against
him that
doth threa-
ten mur-
der.

Arrest.

Num. 10.
2. To sup-
presse the
breach
thereof, in
case of Af-
frayes.

And if one man doth threaten to kill another, and especially if he lie in waite so to doe, and he who is so threatned, doth complain to any one of these officers, (being Officers of the place wherein the partie threatning, is abiding, or doth dwell) and entreate him to arrest the partie to finde Sureties of the Peace; in this case the Officer may and must arrest him forthwith, to find Sureties, and therefore carry him before a Justice of Peace, and if he refuse, either to goe to the Justice of Peace, or being there, to give Sureties; the Officer may presently carry him to Gaole.

As these Officers are to take care to prevent the breach of the Peace, before it be, so are they to take care to suppress and al-
lay it when it is; and therefore

in

Fitz. Barre
202. Ed. 4.5
per Brian. 4
H. 4.9.

Fitz. off. In A.
of p. 130.
Lamb. Inst.
of P. 173.
Dalt. Inst. of
P. 28. 29. 21.
Ed. 4. 35.
21. H. 7. 21.
13. H. 7. 10.

Tithingmen, &c.

44

in case of Affraies, they are to labour carefully and speedily to appease them, wherein these things are to be known.

1 If any of these officers shall see a man presently bent, and in fury going about to breake the Peace, as by using of hot words, or the like, by which an Affray is like to grow, he may and must straightly charge and command the persons at debate, in the Kings name, to keepe the Kings Peace, &c. and to avoide upon paine of Imprisonment. And if there be nothing but words betweene the parties, it seems the Constable can doe no more but this.

2 If the parties at variance will not hereupon obey the officer, and depart, but goe on further to threaten to beat, wound or kill one another, and especially if either of them draw weapon, or give, or attempt to give any blow, then the Officer may and must

Constables,

must keep them asunder by force, and for that purpose, if there be need, may use his owne weapon, and may call and require others to help him, who at their perill must doe so.

Aid.

3 And if the Affraiors shall still proceed, and goe from words to blowes, the Officer and his Assistants may by force apprehend the Affraiors, and cause them to render themselves, and put them in the Stocks, or in some other Prison, or place untill the heate be past, or if it be in the night, untill the morning, or they may carry them unto the next Gaole.

21.H.7.21.
Fitz.off.Iust.
of p.130.

Arrest.

4 If the Officer, or any of his Assistants, in this Service, shall be hurt by the Affraiors, they shall have good remedie against the Affraiors: But if the Affraiors be hurt by the Officers, or their Assistants in the doing of their duty herein, the Affraiors shall have no remedie against them: For
if

21.H.7.21.
Lamb.Iust.
of p.141.
142.

if the Affraiors shall resist, and refuse to obey the Officer in this case, he may beat or wound them, and justifie the doing thereof. And yet if another man (that is no Officer) of his own head shall take upon him to part affraiors (as he may) and in the parting of them, he hurt one of them; in this case, hee that is hurt, shall have an Action of Trespasse against him that hurt him.

Fitz.off. Just.
of p. 130.
Dalt. Just. of
p. 28, 29.
Lamb. Just.
of p. 143.
144.

5 If he that doth make the aff- Breaking
fray, when he doth see the Officer open of a
comming to arrest him, shall flye house law-
into a house, the Officer may in full.
the fresh pursuit of him, breake
open the doores upon him to
take him, and justifie it. And if
he flie out of the Officers liberty,
into another Hundred or Ti-
thing, or into a Franchise in the
same County, when he seeth the
Officer comming to arrest him,
the Officer may upon a fresh pur-
suite follow him, and take him Fresh pur.
there. And so may he also, suite.
where

where hee doth flie out of one Countie into another. But in this last case, when the Officer doth apprehend the party in another County, he can doe no more with him, then a private man may doe, *viz.* carry him before some Justice of the Peace of that Countie, wherein he is taken, to cause him there to finde suretie for the Peace.

6 If two men be fighting together in either of their owne, or Fitz.off.Iust. of.p.130. in another mans house (the doors being shut;) in this case the officer, if he cannot otherwise get in, may break open the doors, to get in to keep the Peace, albeit neither of the parties be hurt.

7 In these cases before the Officer may and ought to carry them before some Justice of the Peace, to finde Sureties for the Peace, because they have broken the Peace already, and are meet to be bound that they shall not break it againe.

8 It

9. Ed. 4. 26.
10 Ed. 4. 17.

8 It is said, that the Constable, carrying the Affraiors to Gaole, may himsele take bond of them to the Kings use, for the keeping of the Peace (the which Bond, he is to certifie into the Kings Exchequer, or Chancery, from whence the Proceffe is to be made, if the Peace be broken) and thereupon deliver them; And that if they will not finde Sureties, the Constable may imprison them untill they doe finde Sureties.

9 When the officer doth carry the Affraior to Prison; or to a Justice of Peace, so that he is bound over to appeare at the next Quarter Sessions to answer it; in these cases, the officer must see that he appeare at the next quarter Sessions of the peace, or the next Gaole Delivery, there to object against the Affraior, as there shall be cause.

21. H. 7. 21.
3. H. 7. 6.

10 If one make an assault, and Affray upon the officer himself, he

he may take the partie, and carry Lamb. Just. of P. 14.
him to a Justice of Peace, or to
Prison, as he may in case of an
Affray done upon another
man.

11 If an Affray be made in the
presence of the Constable, and he
doe not his indeavor to pacifie it, Fitz. off. of Just. of p. 14.
he may be fined for it at the Ses-
sions, according to the discreti-
on of the Iustices. But if the
Affray be in another place, and
notice be given thereof to the
Constable, and he doe not his
best to pacifie it, it is said he shall
not be fined for this. But let this
be doubted, and Constables ad-
vised not to trust to this, but to
doe their uttermost to suppress
all Affraies, and keep the Kings
peace every where within their
Precincts.

3. After
the Peace
is broken.

12 If the peace be but newly
and freshly broken by an Affray,
and the officer have notice of it, Bro. Fauz Imp. 6. Fitz. off. Just. of p. 131.
it hath been said, he may arrest Dalt. Just. of P. 39. 38. Ed. 3. 6. 29. Aff. 56. 10. H. 7. 20.
the parties, and carry them be-
fore Poulton de pace. 13.

for a Justice of Peace, to finde Suretie for the Peace, because they have broken the same already, and are meet to be bound that they shall not thenceforth break it againe. But it seems this is not Law at this day. For it hath been resolved, That a Constable may not imprison any man for an assault or affray, except he be present at the Affray himself. In *Skarrets case. Hil. 37. Eli. Co. B.* But in all cases when an affray is Arrested, past, this officer may by warrant from a Justice of Peace, take and imprison the affraiors, and in case where one is hurt in the affray, and thereby in perill of death, he may *ex officio*, and without any such warrant, arrest and imprison the affraiors. For in this case, when one hath received a dangerous hurt in the affray, the officer after the affray is past, may and must arrest and imprison him that did the hurt, till he give Surety to appear at the next Gaole

Gaole delivery, or otherwise he may with lesse labor then to cary him to Gaole, cary him to a Justice of Peace, who ought to take such order as the party may give such Surety, for the fact may fall out to be felony, if he that is hurt happen to dye within a year and a day next after the hurt done. And if the officer doe not so, or suffer such a person to escape, he may be deeply fined for it. And in this case also it is said, that the officer may after he hath arrested him that gave the wound, keep him a while in some other place out of the common prison, untill it may be known whether the party will live or not.

Against
persons
commit-
ting felony
or suspect
of felony.
Arrest

II If Felons or Murderers be in the Village, and these officers of the Village have notice of them, it is their duty to gather men together & to apprehend them. And if any Felon be taken, it is the Constables office to see him conveyed safely to Gaole. And any o-
ther

Fitz. off. of
Just. of p.
201. I. R. 3.
cap. 3. Lamb.
off. of Con-
stables, 17

11 E
Bro
Imp

ther man aswell as an officer may arrest and keep in hold such a man as he doth know to have committed any Felony. And as touching persons suspect of Felony, it is said, that if any man doth suspect another man of any Felony, that he hath committed, and doe declare the same to any one of these officers, that thereupon he may if the party suspect be within the limits of his office, arrest him, and bring him (and with him he shall doe well to bring the other party that did suspect him) to the Justice of Peace to be examined; But as touching the arresting of another man upon the suspicion of a third person, it seems the Law is otherwise. For it is the opinion of the whole Court, in 17 Ed. 4. 5. and in 5 H. 7. 4. That one cannot imprison another man upon the suspicion of a third man for felony, unlesse he himself have some cause of suspicion also. And that one man, albeit he be an of-

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17 Ed. 4. 4.
Bro. Faux.
Impr. 21.

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Constables,

ficer, cannot justify the imprisonment of another man, suspected by a third man, and at his commandment that doth suspect him. And of this opinion was Mr. *Justice Bridgeman*, and the whole Court of the *Marches of Wales*. And therefore it was held there, That if I suspect a man for felony, and give notice hereof to the Constable, that he cannot arrest him upon my suspicion. And yet when I have arrested him upon mine own suspicion, and delivered him to the Constable, that in this case the Constable must look to him at his perill. But as touching this matter, and for the clearing of this point these things are to be known.

1 That any one of these officers, or any other private person whatsoever, having cause to suspect another of a felony committed by murder, or theft, may himselfe arrest and apprehend such person suspect.

16 Ed. 4. 17.
Fitz. of Just.
of p. 201.

9 Ed. 4. 16.
17 Ed. 4. 5.
20 Ed. 4. 6.
Bro. Faux.
Impr. 27.

pect. But herein he (whosoever he be) must take heed to three things.

1 That there be a Felony committed, or at least confidently reported to be committed, for otherwise there can be no good cause to suspect any man.

2 That there be some cause to suspect the party arrested.

3 That after the arrest the party that doth arrest him doe carry him to a Justice of Peace, or to the common Gaole, to the end that the party accused may be indicted, or acquitted at the next Sessions, &c. or if it be a private man that doth make the arrest, that he doth deliver the party arrested to the Constable, &c. of the place,

2 These, or any, or either of these are held to be sufficient causes of suspicion.

1 That the person suspect is indicted for the same felony.

Causes of
suspicion
of a man
for felony.

29 Ed. 3. 399 2 If the felony be a murder : that

Constables,

that he was present at the time of the murder committed with a sword drawn in his hand.

3 That the person suspect is a person of evill name, or is a vagrant in the Country where the felony was done.

4 If the felony be a Robbery, and the party suspect is found with some part of the goods in his hands.

5 If one apprehended for the same felony hath take his Oath upon a Book, that the party suspect is one of the felons.

6 That it is the common fame and report of the Country, that the party suspect did the fact.

7 If the party suspect doth fly upon the felony committed.

8 If there be a hue and cry out against the felon, and the person suspect and apprehended is such a person as is described by the hue and cry. Or if the felony be for stealing of cattell, and the party suspected is taken driving

5 H. 7. 4. 7 H.
4 35. 27. 11. 8.
21. 14 H. 8.
16. 24. 7. 15.
11 Ed 4.
21 H. 7. 27.
Fitz. Office of
Peace 201.

ving such cattell as are set forth by the hue and cry to be stoln. And yet hereby an honest man may be apprehended, for a hue and cry may be raised where no felony is done. But in this case he that raised it may be punished, and he that doth arrest the party is to be excused; or there may be no other cause to suspect this man but the possession of the goods, and he might come to them lawfully; however this is cause enough to give him that doth arrest ground of suspicion.

9 If *I. S.* would have arrested one that had robbed him, and the party suspect forbid him and saith, he shall not arrest him; this is sufficient cause to make him to be suspected for an accessory. And therefore in all these and suchlike cases a man may justify the arresting of the party suspected.

3 What shall be said a sufficient Trial. ent cause of suspicion, and what not shall be tryed by the Judges.

Constables,

Search.

Breaking
open of a
house law-
full.

4 It is the duty of these officers to doe their uttermost endeavour with all diligence to finde out and apprehend Felons, and if there shall be herein any neglect found in them (especially if it be for favor or reward) they may be grievously punished. And for this cause they may, and ^{a Ed. 4. 9.} they must, after a felony is done, either by, or without the warrant of som Iustice of Peace make diligent search for him that did it in such places within their liberty, as they shall understand to be likely to finde him in, for it is the chiefe part of their office to re- presse felonies. And albeit it be a mans house he doth dwell in, which they doe suspect the Felon to be in, yet they may enter in there to search: and if the owner of the house upon request will not open his doores, it seems the officer may break open the doors upon him to come in to search. And so also it seems the officer may

may search for goods stoln, as he may for the felon himselfe that doth steal them. And if the officer upon search cannot finde the felon, it is his duty to raise a Hue and Cry, and send after him, directing it to these officers, whose duty it is carefully to pursue them as soone as they receive them. Hue and Cry.

5 If they be about to arrest, or doe arrest any man suspected of felony, they may require the aid, Aid. and help of others, both to arrest and carry to Prison the party suspected: And the parties required must in this case help them at their perill.

6 If a private man arrest another man (as he may) upon his own suspicion, and then deliver him to the Constable of the place, he must then look to him, that he suffer him not to escape at his perill, but that he bring him, and the party with him that did arrest him to a Justice of Escape.

E. 4 Peace,

10 Ed. 4. 17.
Fitz. off. of
Just. of P.
201.

Peace, or that he bring the party arrested to the Gaole, for in this case the Constable may not refuse to take charge of a felon so brought unto him by another man. And if there be no Constable of the place where the party is apprehended, and the party that doth arrest, doth bring the prisoner to the Constable of the next parish; it seems this Constable in this case is bound to take charge of him at his perill.

7 If a man fly for felony, the Constable of the village where his goods are, must seise them, and keep them safe, and not part with any of them, but so much only as is needfull for the sustentation of the prisoners; and if the goods be impaired, the Constable must answer for them, and therefore it will be his wildome to take them by Inventory, and in the presence of honest neighbours.

Fitz. off. of
Just o' p. 301

8 An action of Trespasse was brought

4 H. 7. 18.
5 H. 7. 5. 2 Ed
4 8.

brought by a man for the assault
and battery of his servant where-
by he did lose his service three
daies, and the defendant pleaded
that *A.* was robbed at midnight
of goods to the value of 2 pound,
whereupon the said *A.* came to
the Constable and praied him to
search for suspicious persons, and
to apprehend and arrest them, and
accordingly he did search, and
found the same servant walking
suspiciously in the street in the
night, and therefore he would
have arrested him, but the said
servant fled, and would not yeeld
to the arrest, and the defendant by
the Constables commandement
pursued and took him: This was
adjudged a good plea in barre.
For when a felony is committed,
the Constable or any others up-
on suspicion of persons that are
suspicious may arrest them, and
if they will not yeeld to the arrest,
but assault him, or them, that
doth arrest them, they may justi-
fic

Search.

Arrest.

Aid.

Beating.

Hue and
Cry.

Arrest.

sic the beating of him, for that he
 doth resist the Peace and Iustice
 of the Realme, when he doth
 forcibly strive to fly, and not to
 be justified by it. If a Hue and Cry be levied and pursued, that a
 horse of such a colour or mark, so
 many beasts of such a sort or age,
 or so many sheep of such a brand
 be stoln, and one is taken leading
 or driving of the said horses,
 beasts, or sheep; in this case it is
 lawfull for these officers, or
 any other man to stay, and
 apprehend him, and if he
 that doth apprehend him be not
 an officer, he may commit him to
 the Constable of the place where
 he is apprehended, and by him to
 be put in the Stocks, or safe kept
 untill he be delivered by course
 of Law, though the party apprehended be not a man of evill name
 or fame, but a man of good credit: for seeing the Law hath by
 the Hue and Cry accused him, he
 must be by a course of Law again
 acquitted

29 Ed. 3. 9.
 pulnon de
 pace 12. 3 H.
 7. 4.

27 H. 8. 23.

acquited and discharged. And in this case he that is so taken shall not have an action of Trespasse, false imprisonment, or other remedy against him that did apprehend him, or against the Constable to whom he was committed, albeit he be afterwards acquite of the felony. In an action of false imprisonment the defendant pleaded, that there was a felony done, and he suspected the plaintiffe to have done it, and therefore he arrested him: In this case this was held no good Plea, for he should have shewed some ground, and cause of his suspicion. And in an action of false imprisonment, it is no plea for the defendant to plead, that it was told him that the plaintiffe had brought Cattell to the Town, and put them in a blind corner, and that there was great cause of suspicion that the Plantiffe had stoln them, whereupon he did arrest him: for suspicion only without

a felony committed, is no cause to arrest another. And in an action of false imprisonment the Defendant pleaded, that *I. S.* was poisoned, & that the common voice and fame of the Country was that the Plaintiffe had poisoned him, whereupon the Defendant apprehended the Plaintiffe and committed him to prison, as was lawfull for him to doe : And this was adjudged a good plea in bar of the said action; for common voice and fame of the Country is great cause of suspicion of felony, when a felony is committed. But when there is no felony done, it seems this is not cause sufficient to warrant the arresting of such a person. And yet as before it appeareth, the accusation of a man (where no felony in truth is done) by hue and cry is cause sufficient to warrant the arresting of such a person, as is described by the hue and cry. In an action of false imprisonment, the Defendant did plea-

^{5H7 4.2H.7.}
15 11 Ed.4.4

plead, that before the imprisonment *A. B.* was slain at *C.* and the Plaintiffe was in the company of those who killed him at the time of the felony committed, and the common voyce and fame of the Country at *C.* was that the Plaintiffe was party to the felony, whereupon the Defendant finding the Plaintiffe at *C.* arrested him for suspition of felony, and committed him to the Sheriffe, &c. And this was allowed a good and sufficient plea.

If a man doe assault another in or neer a highway to rob him, and he that doth make this assault is taken and brought to the Constable of the place, in this case the Constable must take him to his ward, and carry him before a Justice of Peace, to give Surety for his good Behaviour. In an action of Trespas of assault, battery, and false imprisonment, the Defendant pleaded, that the Plaintiff lay in wait in a highway

Impri-
soning
him that
doth at-
tempt to
robbe.

to

to robbe such persons as travailed
that way, and assaied to rob one
L. and drew his sword and com-
manded the same L. to deliver his
purse, whereupon L. fled and
levied Hue and Cry, and this De-
fendant being travailling that way
pursued the Plantiffe, and took
him and committed him to the
Constable to be put in the Stocks,
who did it accordingly: and this
was adjudged a good justifi-
cation. For every man may arrest
him that doth a felony, or him
who maketh it apparent that he
doth intend, and goe about to
commit a felony, for that he doth
thereby manifest himselfe to be a
principall breaker of the Law and
Peace of the Realm.

Num. 13.

Against
Adulterers

Arrest

If any of these officers be infor-
med that a man and a woman be
committing of Adultery, or For-
nication together, he may and
ought to take company with him,
and if he finde it so, he may arrest
them and carry them both to pri-
son

1 H. 7. 7.

13 H. 7. 10.

son untill they give surety for their good Behaviour.

5 Ed. 4. 3.
Dalt. Just.
of P. 35.

If an Inkeeper, &c. refuse to receive a travailer, when his house is not full having no good excuse for the same refusall; this officer living in the place upon complaint made to him by the travailer, may compell the Inkeeper to receive him. But how the officer shall compell him is not yet set down. And therefore it seems all that he can doe, is to cause him to be indicted at the Sessions, or to be suppressed for it.

Num. 14.
Against an
Inkeeper
that will
not receive
a travailer.

Hitherto for the most part we have shewed you nothing but what is of the primitive and immediate authority and duty of these officers, and what they may and must doe *ex officio*, without any commandment, or authority from others. But forasmuch as a great part of their duty (especially concerning the Peace) consisteth in the making of due execution

cution of the Precepts of higher Officers, and especially of the Iustices of Peace, who be (as it were) immediately set over them; we are therefore in the next place to shew you some part of that which they are to doe in that behalfe.

Num. 15.

In execu-
tion of the
precepts of
others.

Albeit these Officers be sub-
ject to the commandements of
the Justices of Gaole deliverie, of
Oyer and Terminer, and of some
higher Justices, yea, and to the
Precepts of Coroners, Stewards
of Leetes, and of other officers in
some certaine cases, yet because
they are called upon most com-
monly by the Justices of Peace, so
as at this day their office is for the
most part conversant about the
Execution of their warrants:
For if the Justice of Peace doth
understand by complaint, that
any man hath stollen, or slaine, or
any servant or labourer, without
licence, hath departed out of his
masters service, or any that liveth
idly,

Lamb. in the
Const. off.

De
Pe

idly, or suspectedly, knowing once in what parish he is, he doth write to any one of these Officers to command him to bring this person before him, and then he doth examine him, and if he find cause, he doth commit him to the same Constable, or officer, to convey him to the Gaole, there to abide, till the Justices meet at their Quarter Sessions, or at their Gaole deliverie, that the law may either condemne, or acquit him. And to these Precepts, these Officers ought especially to shew themselves obedient. But for a more full discoverie of their Office herein, these things are to be knowne.

Dalt. Inst. of
Peace. 287.

I That howsoever it be so, ^{Felonie, Search.} that if a man have goods stollen, and he doth suspect that such a man hath stollen them, and he complaineth thereof to the Constable, so that now the Constable hath cause to suspect him also; that the Constable in this case of

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his

his owne authoritie, without warrant from a Justice of Peace, may search for the goods, and the Felon; and if he find the goods, seise them, and if he finde the felon, apprehend him; yet for the most part, the Constable not knowing his Authoritie, or the danger, is so fearfull and remisse herein, that he doth nothing untill he hath the warrant of a Justice of Peace, to provoke and enable him so to doe. And if such a warrant be sent to him from a Justice of Peace, to search after goods stollen, and the partie that is suspected to steale them, the Constable may and must execute this warrant accordingly.

Warrant
by word.

2 A Justice of Peace may by Dalt. Just. of P. 287. word of mouth, in many cases, make a Precept or warrant, as strong as in writing. And therefore, if a Ryot be done in his presence, he may send for the Constable, and by word of mouth command him to arrest the Rioters,

tors, to finde sureties for the good Behaviour. And upon an Assault, Affray, Threatning, or other breach of the Peace, done in his presence, the Justice of Peace may by word of mouth command this Officer to arrest the parties to finde Sureties for the Peace; and if they doe refuse, he may by word of mouth command the Officer to convey the parties to Gaole. And in these cases, these Officers are bound to obey the Justices of Peace warrant thus made. But it seems a Justice of Peace cannot by word of mouth give authority to one that is absent, and out of his presence. And therefore this Officer by vertue of such a verball warrant only, in the absence of the Justice, cannot arrest another, and therefore that in this case the Officer is not bound to obey such a warrant by word of mouth only: but in this case, the warrant must be under the hand

and seale, or at the least under the hand of the Iustice of peace, otherwise the Officer is not bound to obey him.

How they must receive and execute the warrants of Justices of Peace.

3 These Officers must with all due respect receive the warrants of the Justice of Peace, for if any warrant, sent from a Justice of Peace, to any one of these Officers, and he shall shew any neglect or contempt of it, as by casting it into the dirt, &c. or doe not with all care, secrecy, & diligence execute the same; these are misdemeanors punishable: and for either of these misdemeanors, the partie offending, may either be bound to the good Behaviour, or be Indicted and fined. And by the Stat. of 27. H. 8. cap. 5. there is a special charge laid upon these Officers within the Counties of *Wales*, that they be carefull to execute the warrants of the Justices of the Peace there.

How farre these Officers are bound to obey the unlawfull warrant of the Justice of Peace.

4 Yea so far forth are these officers bound in this case of obedience

Dalt. Iust. of peace, 291.

Co. 10. 76. 6.
54 14. H. 8.
16. Bro.

Faux. Impr. 8
Dalt. Iust. of
P. 392. see
infra, Num.

to 49.

to the Commands of Justices of Peace, that it is said, that they are not to dispute whether their Commandements be legall, and grounded on sufficient Authority or not. And therefore if a Justice of Peace send a warrant beyond his authoritie to one of these Officers, and he doth execute it, that he shall be herein held excused, and the Justice only shall be blamed for it. *Lamb.* in the Office of Constables.

19 But herein notwithstanding this difference must be warily observed. If the Justice of Peace shall make a warrant for any matter, whereof he hath consance and Iurisdiction, but he doth proceed therein erroneously, and beyond his authoritie; in this case the Officer is bound to obey, and to execute the warrant, and yet he shall be excused therein. And therefore if a Justice of Peace shall make a warrant to this officer to arrest a man for the

Peace, or good Behaviour, &c. without good cause, or without any cause; in this case the officer must execute the warrant, and yet he shall be excused. So if he send his warrant to apprehend a man upon a supposed felony done, when in truth there is no felony done; in this case the officer is excusable if he execute the warrant. But if the matter whereabout the warrant is, be a thing which is out of the Jurisdiction of of the Justice of Peace, as that whereof he is no Iudge; in this case the officer is not bound to obey it, for if he shall execute the warrant, he may be punished for it. And therefore if a Justice of Peace shall send a warrant to this officer to take *I. S.* and carry him to Gaole, because he doth refuse to pay *I. D.* ten pound, which he doth ow him, and all this is set down upon the warrant, in this case the officer may refuse to doe it, for in this case the Justice of
Peace

Peace is no more Iudge of the cause then any other man.

5 By that which hath been last said it doth appear, that it is the wisdom of an officer that doth receive any warrant from a Justice of Peace, to doe any thing well, to consider what it is to doe: and if it be to doe any thing unusual, or extraordinary, to take good advise therein, for he may be punished for executing the warrant of a Justice of Peace, and he is bound to take notice of the Authority and Jurisdiction of the Justice of Peace therein.

Dalt. Just. of
p. 291, 137.

6 In all cases where he is to do any thing by the commandment of a Justice of Peace, or any other officer, it shall be his wisdom precisely to follow the contents of his warrant, and to take care not to exceed it, because it is dangerous so to doe: Nevertheless this must herein be understood; That when any thing is commanded, all that doth necessarily con-

duce to the doing of that thing and without which it cannot be done, is commanded also; and therefore all that, and so much may be done, albeit it be not within the words of the warrant.

Deputy.

7 If a warrant come to any of these officers from a Justice of Dalt. Just. of p. 290, 291.

Peace to bring such a man before him, to give Sureties for the peace, or good behaviour; in this case the officer cannot make a Deputy, or command another to do it:

Aid:

Warrant
joynt and
severall.

But he may require the aide of others to help himself in the doing of it. And if a warrant be made to two men joyntly to arrest a man, in this case one of them alone may do it.

Arrest
without
warrant.

8 When this officer doth arrest any man, he must be sure that he Dalt. Just. of p. 291.

have a sufficient warrant for the same, at the time of the arrest made: For if an officer shal first of all, without any warrant arrest a man, and bring him before a Justice

Justice of Peace, and afterwards shall get a warrant from the same Justice so to doe; this will not make the first arrest lawfull, but the party arrested may have an action of false imprisonment against the officer for the same.

Dalt. Just. of
p. 291. Co.
5. 59. Bro.
Faux. Impr.
2

9 If a warrant be directed to this officer from the Justice of Peace to bring any person before some Justice of the Peace of the County for the Peace, or good behaviour; and the cause (as it ought to be) is set down in the warrant; in this case the duty of the officer is first to finde out the party, and having found him, to require him in the Kings name to go with him to a Justice of Peace, to put in Surety according to the warrant. The which if he refuse or delay to doe, or if he offer to run away from him, or resist him, then must the officer forthwith arrest him, and convey him to the Prison (if the warrant be so, as usually it is) or put him in some Stocks

Stocks.

Stocks untill he can conveniently have strength to goe with him, without carrying him to any Justice of Peace. And then must the party remain in prison untill he shall voluntarily offer and find sureties according to the warrant. And if the party upon the first demand thereof made by the officer, doe yeeld to go and find sureties, then may not the officer absolutely arrest him. And if he be obstinate and will not yeeld to the officer, but resist him; the officer may justifie the beating or hurting of him.

Beating.

And if the party doth yeeld to goe to a Justice of Peace, to give Surety according to the warrant, but he will not go to the same Justice that made the warrant, but to some other Justice he doth name; herein the officer may, if he please, suffer him to have his will; howbeit in this case the law doth give the election to the officer, and he may bring the party before

before what Iustice of Peace he please. And yet if the warrant be to bring the party before the same Iustice of Peace that made it; in this case the officer must bring him before the same Iustice of Peace, and cannot bring him before any other.

And if the party being before the Iustice of Peace refuse to give Surety according to the warrant, and the warrant have words of authority to the officer to carry him to the Gaol (as most commonly every warrant hath) then may the officer carry him to Prison, without any new warrant from the same, or any other Iustice of Peace so to doe. And in these cases also the officer is to consider whether the warrant doe come directly from the meer authority of the Iustice of Peace, or else be grounded on a writ of *Supplicavit*; sent down from the higher authority (which difference ought to appeare in all welmade war-

warrants.) For if the warrant be grounded on such a writ, then may the officer compell the party to go to the very same Iustice or Iustices of Peace that made the same warrant, or else he may carry him to Gaole. Neither is it requisite in this case, that the officer should dance up and down after the party untill he can finde out Sureties, but he may detain the prisoner untill he can bring Sureties to the officer. And the officer that doth arrest a man upon such a warrant of the Peace or good behaviour, must see that he doe afterwards bring the party to the Iustice of Peace, to give Sureties, or to the Gaole; for if he doe not so, he may be punished for it, by Fine at the Sessions, and (as it seems also) by action of false imprisonment at the suite of the party arrested. And if the party against whom such a warrant is granted, hearing thereof doth (as oft times he doth) offer himself

Dalt. Iust. of
Peace 137.

3. Ed. 4. 6

self with sureties for that cause to some other Iustice of Peace, and he doth bind them, or he findeth Sureties in some of the Courts at Westminster, and so hath a *Superseam* out of the Chancery, Kings Bench, or from any Justice of the Kings Bench, or from any Justice of Peace of that County directed to all the officers of the County to discharge the same Surety of the peace or good behaviour, and he hath the same ready to shew to such officer as shall come to him with the warrant as aforesaid, and doth shew, and deliver the same to him when he is about to execute the same warrant; in this case the officer is not to meddle with him, for if the officer shall require the party to obey the Arrest, he may refuse it, and if the officer shall arrest the party, he may have an action of false imprisonment against the officer for it. And by this *Superseam* the officer is discharged

ed of any duty touching the warrant of the Justice of Peace directed to him. But let the officer see that he keep his *Supersedeas* safe for his discharge, if he be questioned for not serving the warrant. And it is not amisse for him to give notice of the same to the Justice of Peace, from whom he received the commandement of service, that thereby he may see the cause why the same was not done. But in these cases some say, that another Justice of Peace cannot discharge the warrant of the first Justice of Peace untill the party be bound indeed. Howbeit if such a *Supersedeas* come to the officer that hath the warrant to arrest it seems that by this he is discharged, and that he is to obey the *Supersedeas*, especially if he know not whether the party have given Bond or not.

10 A Constable, or other Co. 9. 69. 6.
sworn or known officer (albeit 54. 8 Ed. 4.
he be not known to the party ar- 14. Dalt. Just
rested of p. 29.

rested) needs not to shew his warrant to a man, when he comes to serve it upon him, although he demand it. But otherwise it is, when he that is no officer shall arrest a man upon a Justice of Peace warrant, for he must shew his warrant. And the sworn or known officer also must upon the arrest of the party declare the contents of the warrant to him.

Co. 9. 69.

11 A Constable or the like officer giveth sufficient notice what he is, when he saith to the party, *I arrest you in the Kings name, &c.* Arrest for this is an arrest in Law; and therefore in this case the party arrested, at his perill must obey, though he know him not to be an officer, for if he have no lawfull warrant, the party grieved may hereupon have his action of false imprisonment against him. Arrest what it is.

22 lib. A8.

55. Co. 261.

288.

12 If a warrant be directed to this officer to arrest one that is indicted of felony; in this case the of.

if he cannot otherwise apprehend the partie, or being taken, he resist or fly, may justifie the killing of him.

Hitherto have wee spoken of the Office of these Officers, set forth by the Ancient Common Lawes of the Kingdome. And now we come to speak of the same, as it is enlarged by divers Statutes. Wherein also we shall finde the same difference wee had before, That by the same Statutes they are required and enabled to doe something, as of their owne Authority, and without any commandement or Authority from others; And other things they are required and enabled to doe when they have Commandement from the Justices of Peace, or some other Superior Power so to doe.

Against
Purveyors
or Takers,

If any Cator, or other shall
(without lawfull bargaine) take
upon him to purvey, or take up
any thing whatsoever of ano-
ther,

Stat. 12. H. 6
c. 14 36. Ed.
3 c. 2.

ther, against his will, to the use of any great Lord, or other person, other then to the use of the King and his house; and the partie grieved give notice thereof to the Constable, or such Officer of the Place; in this case, and hereupon the Officer, *viz.* the Constable or Tithing-man of the place, must under paine of 20^l. arrest such Taker, and carry him to the next Gaole, where he is to remaine without Bayle or Mainprise, untill he re-deliver the things so taken, or the value thereof.

stat. 28. H. 6.
stat. 2. c. 2.

No Purveior of the King, or his Deputie, may take up any horse or plough of any man, for the Kings service, but by agreement made with the owner thereof, and by the deliverie of the Maior, Bailiffe, Constable, or such other Officer of the place where the taking shall be; And if he doe otherwise, the partie grieved may have an Action of Trespass.

Constables,

Trespasse againſt him. And by this Statute, the Officer being required by the Purveior, is to be ready to aſſiſt him in the taking of theſe things.

If any corne be taken for the King, or Queen, or their children, it muſt be taken by ſtriked meaſure, of eight buſhells to the Quarter, according as is uſed through the Land. And all ſuch corne, and other things whatſoever, which ſhall be taken for either of their ſaid houſes (if the buyer and ſeller cannot agree) ſhall be priced by the view of the Lords, or their Bailiffes, or the Conſtable or Tithingman, and by appraiſement under oath, of 4. other good men of the place where the Taking ſhall be, at the very value thereof, and as the prizes doe commonly goe at the next Market Townes. And theſe Appraiſers are not to be threatned, &c. to make them ſet downe any other price, then their

Con-

Stat. 28. Ed. 3.
c. 1. 36. Ed. 3.
cap. 2.

Consciencs shall direct them unto. And Tailcs [or Indentures] shall be made and sealed incontinently between the Purveiors and owners of the goods, in the presence of the Officers and Praisers. By which Tailcs, satisfaction ought to be made to the owner for the things so taken. And if any Purveior, or his Deputie doe otherwise, he shall be presently arrested by the Towne, and brought to the next Gaole. And by this Statute, this Officer being required, is to see the Appraisement and the Tailcs made. And if any take up any thing otherwise, he is to take the neighbours and arrest him, and carry him to Gaole. And ready money must be paid in hand to the seller, by the Taker, according to the prices agreed upon, or set downe. And if any Taker, or his Deputy, shall make Purveyance of any thing to the value of 40^s, or under, and doth not

Stat. 20. H. 6.
cap. 8.

G 2

make

make ready payment therefore;
 Resistance the owner may retaine the thing
 so taken, and resist such Purveiance. And the Constable, Tithingman, or chiefe Pledge of the place, being thereto required by the owner, ought to keep the Peace, and ayd and assist such owner in making such resistance under paine, if he doe not so, to yeeld to him from whom the same goods are taken, the value of the thing taken, and his double dammages. And by this Statute, it seems, the Officer is by force (if otherwise he cannot doe it) to helpe his neighbour to keep his goods, and to resist the Purveior, in his unjust taking thereof. And herein it seems, the owner and Officer both may proceed so farre in the defence of the goods, and resistance of the Purveior, as any man may doe in another case, in the defence of his owne goods against him that doth attempt to take them unjust-

9. Ed. 4. 28.
 Kelw. 92.

justly away from him, which is, not onely to assault, but (if there be no other remedy) to beate also the Taker, so as by the bearing he doe not wound him.

Stat. 3. & 9.
Ph. & M. C. 6.

Takers, undertakers, their Deputies, or servants shall not take any Beefes, Weathers, Lambes, Calves, or any kind of Salt-fish, or any kind of graine, or any butter in any vessells, or cheese, bacon, conies, pigges, geese, capons, or hens, but by Commission, and a blanke thereto for that shire annexed: in which Blank, the said severall things, so to be taken, and the prizes of them shall be written, and to which Blanke the High Constable, Pettie Constable, or Headborow of the place where any such Taking shall be, ought to subscribe his name, or signe manuell. And such Taker then ought also to make a Briefe or Docket in writing, subscribed with his name, containing every of the said

things so taken in every place: and ought then also (under paine of 100. Markes) to deliver the same unto the said High Constable, Pettie Constable, or Headborough: who also must deliver it over to the Justices of Peace, at their next generall Sessions, within that County. And by this Statute, this Officer, being required so to doe, is to subscribe his name, or signe to such Blanks so written, as aforesaid, And to accept of such Briefes, or Dockets as shall be so tendred to him as aforesaid, and then to deliver the same over to some of the Justices of Peace at the next Quarter Sessions for the County.

Num. 17.
Against
Clothiers.

He that shall espie and prove defaults in any Cloth set to sale, against the Assise appointed for Clothes, and against the forme of the Statutes, shall have the third part of every such defective cloth for his travel by the deliverie of the Sheriffes, if

Stat. 7. R. 2.
cap. 9. Fitz.
Just. of P.
203.

if they be present, or of the Lords of the Faires and Markets, or of the Stewards, Bayliffes, or Constables of the places where the said defective Clothes are found by Indenture made between them : The which Indentures must be delivered yeerly at the Feast of S^t. *Michaell*, into the Exchequer, to the end to charge the Aulveggers and Collectors, by whom such defaults should be searched and amended. By which Statute, this Officer being required, is to take and deliver a third part of all such Clothes as are found so defective by Indenture, &c.

Stat. 1 Mar.
cap. 3. See
after. c. 9.
num. 4.

None may purposely, by word *Num. 18.*
or deed [as by talking, laugh- Against
ing, hemming, or the like] with- him that
out authoritie, disturbe a Mini- disturbeth
ster in his Preaching of the a Minist. in
Word, saying of Divine Service, the Church
or Administration of the Sacra-
ments; and if any doe so, any
one of the Constables or

Churchw. Churchwardens of the place may of his owne authoritie presently apprehend him, and carry him to a Justice of Peace of the same County: who may (if hee thinke it meet) commit him to safe custodie; and within 6. dayes after, taking with him another Justice of Peace, must examine the matter; and if by proove of two witnesses, they finde it true, they must commit the partie to Gaole, where he is to be for 3. moneths.

Num. 19.
Against
Rogues
and vaga-
bonds.

Also it is the duty of all these Officers, to punish Rogues and Vagabonds. And as touching this part of their office, two things are to be known.

stat. 39. Eliz.
cap. 4.
1. Jac. cap. 7.
Dalt. Just.
of P. 96.
Lamb. Just.
of P. 192. St.
39. Eliz. c. 17.
See more
cap. 6.

1 What a Rogue is, and who is to be accounted a Vagabond.

2 What is to be done unto him.

**Who is a
Rogue.**

And as touching the former of these, these things are to be known, That all the persons here-
after

after mentioned, being above the age of 7. yeers, and offending, as hereafter is mentioned, shall be adjudged Rogues, or at the least shall be punished as Rogues, *viz.* All persons going about begging, upon any pretence whatsoever, as Seafaring men, pretending losses of their ships or goods upon the Sea, or such as call themselves Scholars, or the like.

2 All idle persons, going about the Countrey, either using any subtil craft, or unlawfull games, or being Fortune-tellers, or Juglers, or using any such crafty Science.

3 All persons that be, or utter themselves to be Proctors, Procurors, Patent-gatherers, or collectors for Goales, Prisons or Hospitalls. And yet Patent-gatherers for fire, or the like, albeit perhaps they may be within the words of the Statute, yet are they not had nor reputed as Rogues,

Rogues, nor so be dealt with, sir Edward Hearne.
 for such Patents are always made
 with a *Non obstante* the Statute.
 And therefore in Easter Terme,
 4. Car. in the Starre-chamber, a
 Justice of Peace was fined 100^l.
 for whipping such a Patent-ga-
 therer as a Rogue.

4 All Fencers, Bearewards,
 Common Players of Enterludes,
 and Minstrills wandring abroad,
 other then such as are licensed by
 the King himselte.

5 All Tinkers, Pedlers, and
 pettie Chapmen, and also Glasse-
 men that wander up and downe
 the Countrie to sell wares. But
 if they be going to a Faire or
 Market onely, they are not to be
 taken as Rogues.

6 All wandring persons, and
 Common Labourers, being per-
 sons able in bodie, using loyter-
 ing, and refusing to worke for
 such reasonable wages, as is tax-
 ed, or commonly given in such
 parts where such person shall
 dwell

Lamb. Inst.
of P. 97.

dwell or abide, not having living otherwise to maintain themselves. And yet such persons as be of any parish, and have able bodies to worke, and doe not wander abroad out of the parish, though they refuse to worke for the wages given or taxed, are not to be sent to their places of birth, or last habitation, &c. but to the House of Correction.

7 All poore persons that are appointed to aske reliefe in the parish where they dwell, by the Overseers thereof, if they shall beg in any other sort then is so appointed them, or shall begge by the High-wayes, though in their owne parish. And yet these persons are not to be sent to their place of birth, or out of the Towne, except it be to the House of correction. And so also it seemeth, of all other persons that begge in the parish where they dwell without the appointment of the Overseers; in these cases they

they are to be sent to the house of Correction.

8 All persons (not being Felons) wandring, and pretending themselves to be *Egyptians*, or wandring in the habit, forme, or attire of counterfeit *Egyptians*.

9 All such persons, as being punished for Rogues, and having a Testimoniall, through their owne default, shall not pursue the order appointed by the Testimoniall aforesaid; for so often as they shall breake the same, they are to be taken and whipped againe, untill they come to the place appointed them by the Testimoniall.

10 All such poore persons disabled and impotent, that (being licensed) travell from their home, to the City of *Bathe*, or Towne of *Buxton*, to the Bathes for ease of their griefes, or from thence homeward, that shall beg, or if such persons be not licensed by two Justices, or shall not

re-

returne home againe, according as they are limited by their Licence, or shall not be provided of reliefe for their travell.

II All Souldiers or Mariners that shall begge, or shall counterfeit any Certificate from their Generall or Governour. (But this in some cases is Felonie. Stat. 39. Eliz. cap. 17.) And yet it hath been held, that if a Seafaring man suffering shipwracke, or a poore Souldier or Mariner, not having wherewith to relieve himselfe in his travell homewards, and having a Testimoniall under the hand of some one Justice of Peace, of or neere the place where he landed, setting down therein the place and time where and when he landed, and the place of the Parties dwelling, and birth, whither he is to passe, and a convenient time for his passage; that if in this time and way they had begged, that they were not to be accounted Rogues. But
it

it seems the Law at this day is taken by most men to be otherwise, and that this License will not serve for the Souldier, or Mariner (especially if he be hurt or maymed) for then he may and ought to be relieved with money by every Treasurer of the Countie where he passeth, viz. with a convenient summe of money to carry him through the same to the next County. And it is thought, that at this day no Justice of Peace can license a man to begge in any case. Howbeit in some cases he may license a man to wander, as in the cases before, the Justices of Peace may license Poore men to travell to the Bathes, and poore Souldiers and Mariners to travell to their place of birth: and one Justice of Peace may license a Labourer in the harvest time to goe out of his owne Countie, into another Countie to worke. And therefore if at this day a Souldier or Ma-

See the
Treasurers
Office after-
wards. cap. 2.

Stat. 43. Eliz.
cap. 3.
Dalt. Inst. of
P. 78. 100.

Mariner shall be taken begging, or shall counterfeit a Certificate, hee is to bee accounted a Rogue.

Dalt. Inst. of
P. 98.

12 A Rogue, &c. that shall goe with a generall Pasport, viz. such a Pasport, which is not directed from parish to parish, is still to be accounted a Rogue, and may be punished by whipping againe. And so also may such a Rogue, as shall carry his owne Pasport without a Guide.

13 All servants departing out of service without a Testimoni-
all, &c. or which shall be taken with any counterfeit or forged testimoniall.

See after,
num 20. Sta.
5 Eliz. c. 4.
Stat. 7. Jac.
cap. 4.

14 All persons that are able to labour, and thereby to relieve themselves and their families; and shall runne away, or threaten so to doe, and to leave their families to the parish.

Stat. 1 Jac.
cap. 31. See
Numb. 35.

15 And all persons infected of Plague, the Plague, and commanded by
any

any of these officers to keepe in their houses, that doe notwithstanding goe abroad amongst their neighbours. And as touching the latter of the two questions before proposed, these things are to be knowne.

What is to
be done to
him.

1 Every one of these Officers must doe his best endeavour to apprehend every one of these vagabonds, rogues, or sturdie beggers which shall be found and taken begging, vagrant, wandering, or misordering themselves within their Hundred, parish, or tithing. And if any other man bring any such person to any of these Officers, he must take hold of him.

Stat. 39. Eliz.
cap. 4. 1 Jac.
cap. 7.

2 After he hath apprehended any such Rogue (except it be the Rogue that doth run, or threaten to run from his family) he is to take order (with the advise of the Minister, and one of the parishioners of the place) that he be stripped naked from the middle upwards,

wards, and that he be openly whipped untill his or her body be bloody.

3 After this whipping, the partie must have a Testimoniall subscribed with the hand, and sealed with the seal of the same Officer, and Minister, testifying that the same person hath been punished according to this Statute, and mentioning the day and place of his or her punishment, and the place whereunto such person is limited to goe, and by what time the said person is limited to passe thither, at his perill, after this manner.

John at Style, a sturdy vagrant begger (of low personage, red haired, and having the naile of his right thumbe cloven) aged about 40. yeers, was this sixt day of Aprill, in the fourteenth yeere of the reigne of our Sovereigne Lord King James of, &c. openly whipped at W. in the County of Wilts, for a wandring Rogue, according to the law: and

Constables;

is assigned to passe forthwith from parish to parish, by the Officers thereof of the next straight way to Sale, in the Countie of Essex; where (as he confesseth) he was borne [or dwelled last by one whole yeere, &c. if the case be such,] and he is limited to be at Sale aforesaid, within 10. dayes, now next ensuing, at his perill.

Given under the hand and Seale of A. B. Minister of the said parish of W. and of C. D. Constable of the same parish.

And this Testimoniall must be registred in a booke, provided for that purpose, by the same Minister, under paine of five shillings.

4 The partie must be then forthwith sent by the same Officer to the next parish, that from thence he may be conveyed from parish to parish, by the Officers of the same parishes, the next straight way to the parish where he was borne, if the same may be known by the parties confession,
or

or otherwise, and if the same may not be knowne, then to the parish where he or she last dwelled by the space of one yeere before the time of the same punishment done, there to put him or her self to labour; or not being knowne where he or shee last dwelt, or was borne, then to the parish where hee or shee last passed through without punishment, and thence to be conveyed from Officer to Officer, to the house of Correction of the Limit wherein that parish doth stand, or to the Gaole of the County. And in these cases, it is the duty of these Officers also to take and convey these persons from hand to hand, each of them from his owne, to the next Tithing, accordingly: And in this time they are not to begge, but are to be found at the charge of the parishes through which they are conveyed, the Officer laying out the same for the parish. And upon this part,

because the Execution of these Laws is required of these Officers, for their better direction herein, these things (said to be resolved by the Judges at *Westminster*, soone after the making of the Statute of 39. *Eliz. cap. 4.*) are to be observed.

Lamb. of the
Const. off.
49.

1 If a Rogue say he was borne at such a place, and it cannot appear that he was born elsewhere, he must be sent thither.

2 If the husband or wife have a house, and the husband or wife rogue about, they ought to be sent to the Towne where the house is. And so of an Inmate.

3 The wife and children under seven yeeres of age, being vagrant, must goe and be placed with the husband: and if the husband be dead, then with the wife, where she was borne or dwelt. And the vagrant children above 7. yeers of age, must be sent to the place of their birth, And if the

See after
cap. 6. Num.
2. part. 9.

the vagrant parents, with their children, under 7. yeers, be placed at the place of birth of the parents, or at the place of last dwelling (as the case shall fall out) if afterwards the parents, or either of them die, or runne away; yet the children once settled, must remaine there still, and may not be sent to their place of birth, though after they grow to the age of 7. yeers.

4 The wife being a vagrant Rogue, ought to be sent to the husband, though he be but a servant in another Towne:

5 The Rogue, whose place of birth or dwelling cannot be knowne, hath wife, and children under seven yeeres of age; they must goe with the husband to the place where they were last suffered willfully to passe through, without punishment, where the children must be relieved with the worke of their parents, though their parents be com-

mitted to the house of Correction.

5 If any of these officers doe not their uttermost endeavour, to take, punish and convey, such Rogues according to the Statute, they forfeit ten shillings, for every default. And if any other man shall bring any such Rogue to the officer, and he refuse to take and punish him as aforesaid; he doth forfeit 20^s. for every time he so doth. And if any man hinder the punishment or conveyance of Rogues after this sort, as if any man shall make rescous against any person authorized for the execution of this Statute, or any man convey Rogues by a generall Passport, without conveying them from Parish to Parish, or if any Constable will not receive a Rogue, when he is brought to him in the right way according to his Passe, or if he accept him, and doe not convey him to the next officer; for every of these offences,

ces, the offender doth forfeit five pound, and is to be bound to the good behaviour. And if the Church-Rogue be brought, and delivered or offered to the Churchwardens and Overseers of the poor or either of them (to whom he is to be offered) they must accept him and look to him, or else they doe forfeit for every default herein, five pound, and they are to be bound to the good behavior. And if these officers doe take him, it seems they may deliver him over to the Constable presently. For it seems the Rogue is to be delivered, or offered to the Churchwardens and Overseers (who are to see him relieved there) but he is to be carried and conveyed by the Constable. And yet if the Constable will not receive him at their hands, the Churchwardens and Overseers themselves, must at their perill, see him conveyed to the next Parish.

6 By the Kings speciall charge

H 4

and

See the words of the Stat. of 39 Eliz. which are, shall be conveyed by the officers of the Village.

and direction, in *Anno Domini* 1630. wandring persons, with woman and children, are to give an account to the Constable where they were Married, and where their Children were Christened.

7 If any of these Rogues shall appeare to be dangerous to the inferior sort of people of the place, as if he shall threaten, or offer any violence to them, or will not be reformed by this means of his roguish kind of life, as in case where he hath been punished, and sent to his place of birth, and doth then fall to his roguish kinde of life again, or when he shall say he was born, or last dwelt in such a place, and in truth it is not so; in these cases, such a person is to be accounted an incorrigible Rogue. And it is the duty of these officers, if any of them meet with any such person within his liberty, to carry him before some Justice of Peace, there

Incorrigible rogues

there to be ordered by him according to the Statute.

Stat. 7. Jac.
cap. 4.

8 If any warrant be sent from the Iustices of Peace to any of these officers to convey any Rogue, or other idle or disorderly person unto any House of Correction within the same County; they must be carefull at the charge of the Hundred to doe the same under pain to forfeit for every default what fine (not exceeding forty shillings) the Iustices shall impose upon him that doth offend.

9 The Iustices of the Peace of ^{Private} every Division are to keep a pri- Sessions.
vate Sessions twice a year at the least, to look to the execution of Statutes for the Houses of Correction, and for the punishment of Rogues. And they must then foure or five daies before, send their warrants to all these officers within the Division, to require them that they being assisted with some others sufficient men of the place

Search.

place doe make privy search in one night wthin their Precincts to finde out and apprehend such Rogues and idle persons, and to bring them (if they finde any) before the said Iustices at their meeting. And this these officers must be carefull to doe accordingly; And all these officers must appeare at the said meeting, and then and there certifie upon their Oaths in writing under the hands of the Ministers of the places where they dwell, what Rogues and Vagabonds they have taken in the same search, or since the last meeting of the Iustices, and whom they have punished, and sent to the house of Correction, under pain to forfeit for every default whatsoever the said Iustices under forty shillings shall asseffe. And by special charge and direction from the King in *Anno Domini* 1630. it was commanded that the Iustices of the Peace in their Divisions should

should meet monethly in certain places, and that then and there these officers should attend upon them and give an account of their offices as touching the Poore, Rogues, and the like. And therein it was also required and charged, that if there were any that in any place did live out of service idly, and that would not worke for reasonable wages, or did live to spend all they had at the Alehouse, that these persons should be brought by these officers to the Iustices of Peace at their said meetings, there to be ordered as to them should be thought fit.

10 This officer is to take and punish, and convey to other officers, every Rogue, and Begger, that shall be brought and set on the land here from *Ireland, Scotland*, or the *Isle of Man*, till he come to the next Port or Parish, in or neer, where he was first landed, under paine to forfeit ten shillings for every default.

11 It is every mans duty, as well, as these officers to cause to be apprehended such Rogues as he shall see, or know to resort to his house to beg or receive any almes, and him or them shall carry or cause to be carried to the next Constable, or else shall forfeit for every default herein ten shillings. Stat. 1 Jac. c.

14 The person that shall run from his family, and leave it to the Parish; is to be punished as an incorrigible Rogue. And he that doth threaten so to do, is to be sent to the House of Correction, unlesse he can give sureties for the discharge of the Parish. Stat. 7 Jac. cap. 4.

Num. 20.
Against
servants departing
without a
Testimonia-
l.

No person retained in Husbandry, or in any Arts appointed by the Statute of *Laborers* (*made in the fifth years of the Reigne of Queene Elizabeth*) may depart after the time of such retainer expired out of the Town or Parish, where he last served, to serve in another, unlesse he have a Testimoniall Stat. 5 Eliz. c. 4. See before Numb. 16.

Testimonia-
l.

moniall under the Seale of the Constable, or other such officer, and two other honest householders of the Town or Parish where he last served according to this form.

Memorandum that A. B. late servant of C. D. of E. in the County of K. Husbandman (or Taylor, &c.) is licensed to depart from his said Master, and is at liberty to serve elsewhere according to the Statute in that case made and provided. In witnesse wherof, &c. Dated the day, moneth, year, and place of the making thereof. The which Testimoniall the Parson, Vicar, or Curate of the Parish where such Master, Mistresse, or Dame doth dwell, ought to register, taking only two pence therefore. And if any such person be admitted into any other service without shewing such Testimoniall to the Constable or such other officer, Curate, or Churchwarden of the place where he shall be accepted, he shall be imprisoned untill he procure

procure such a Testimoniall : the which if he doe not within 21. daies next after the first day of his imprisonment, or if he shall bring a counterfeit Testimoniall, he is to be whipped as a Vagabond. And he that shall receive any such person into his service doth forfeit five pound for every such offence.

Num. 21.
About a
Recusant.

The Minister or Curate of the Stat. 35 Eliz. cap. 2. Parish, and the Constable, Head-borow, or Tithingman of the Town, to which any popish Recusant shall be sent by order of this Statute shall take notice thereof by him, and shall enter the same into a book to be kept by every parish for that purpose, and shall certifie the same the next quarter Sessions of the Peace in that County.

Num. 22.
In levying
of money
rated by
the Justices
and in making
of Rates.

These officers are to joyn with the Churchwardens in the levying of the money rated by the Justices of the Peace for the reliefe of the poor prisoners in the Kings bench See after Num. 3.

bench and Marshallsey, and to collect and pay it once every quarter to the High Constable of the Hundred, under paine of five pound. Also they are to joyn with the Churchwardens to rate their parish toward the paiment of the Iustices rate for Mariners and maimed Souldiers, and to collect and pay the same ten daies before every quarter Sessions to the High Constable; whereof see more in the Treasurers office afterwards *cap. 2.*

Stat. 7 Jac.
cap. 29.

No Butcher may kill or dresse to the end to put to sale, any Ox, Beeve, Hog, Calfe, Ram, Ew, or Weather in the Lent, except Oxen, or Beeves, to victuall ships in to forrain parts, and flesh to be killed three daies before Easter, under pain to lose the same meat dressed. And these officers may, and ought to enter inter all victualling and other houses that are suspicious to have such meate dressed in them to search, and if

Num. 23.
Against them that
kill meat
in the Lent.

if they finde any there, they may take it and distribute it to the poore prisoners and other poore folk thereabouts according to their discretion.

Num. 24. Any one of these officers may, Stat. 5 Eliz.
cap. 4
Against and must in the time of Hay
Laborers or Corn harvest, upon re-
to compell quest to him made by any man,
them to and for the avoiding of the losse
work. of Corn, Grain, and Hay, cause all
such Artificers, as he shall see meet
to labour, to serve by the day for
mowing, or otherwise for the
getting in of the Corn, or Hay a-
broad, according as they see them
fit: And if such persons shall re-
fuse to work as aforesaid, being
thereunto required by the officer,
the officer may put him in the

Stocks.

the Stocks by the space of two dayes
and one night: And this if the of-
ficer shall neglect to doe, he shall
forfeit 40^s.

Num. 25. Constables of the Villages of Stat. 18 H. 6:
cap. 19.
In Arrest- the Ports may arrest all Souldiers
ing of Sol- that arrive there, that they suspect
diers. to

to have been retained in wages Suspicion.
for the service of War beyond the
Seas, or upon the Sea, and have
departed from their Captain,
without his leave and Testimo-
niall, and may cary them to the
Iustices of Peace to be examined
hereupon, and to know whether
they be lawfully departed from
their Captaines or no.

Stat. 12 H. 8.
cap. 14.

All persons abjured to any Num. 26.
Sanctuary within the Realm shall About ab-
be conveyed thereunto by these jured per-
officers from Town to Town, un- sons.
till they come to the same San-
ctuary, whereunto they are ab-
jured, in like manner and form,
as persons that had abjured this
Realme, should have been con-
veyed to the next Port of the Sea,
from the place where they abju-
red unto the same Port, by course
of the cōmon law, before the ma-
king of this Statute. But see now
the Statute of 1 Jac. cap. 25. That
so much of all Statutes as doe con-
cern abjured persons and Sanctu-

aries made before 35. *Elix.* are repealed.

Num. 27.

Against
High Con-
stables for
the monies
recovered
by them
against of-
fenders, a-
bout the
highwaies.

The petty Constables, &c. are Stat. 3. & 3
to joyn with the Churchwardens Ph. & M. c. 8.
to take the Estreats of the forfei-
tures of offenders against the
Statutes for the highwaies. And
they are to call the High-Consta-
bles to an account for the moneys
they have received of such offen-
ders, and to take the same moneys
into their hands, and to bestow
the same upon the reparation of
the highwaies of the place.

Num. 28.

In making
and colle-
cting of
rates.
For mony
recovered
against a
Hundred
upon a
Robbery.

Two Iustices of Peace may Stat. 27. *Elix.*
rate a Hundred, for the money cap. 13.
recovered against the same, and
levied upon one man of the Hun-
dred, upon a Robbery. And
then these officers of the severall
places, towns, and parishes, may
and must ratably and proportion-
ably tax and asseſse every inhabi-
tant and dweller, within the same
place according to his ability to-
wards the paiement of the rate and
asseſſement made by the Iustices.

And

And this money so rated, they must afterwards collect. And if the parties so taxed refuse to pay this rate, these officers may of their own authority distrain every person, by his Goods and Cartels that shall refuse to pay the same, and may sell the same goods, and retain so much of the money made thereof, as his taxation shall come unto; and the overplus of the money made of the same goods, they must deliver to the person so distrained. And within ten days after the collection of those moneys, they must pay over the same to one of the Justices of the Peace, that made the same rate, to the use of the party robbed.

Stat. 3 Jac. c.
10 Dalt. Just.
of P. 298.

If any person be sent to the Common Gaole of the County by any Justice or Justices of the Peace, for any offence; the same person, if he have abilitie and estate of his owne to doe it, must beare his owne, and his at-

Num. 29.
For money
to carry an
offender
to Goale.

tendants charges, and this if he refuse to defray, then such Justice or Justices of Peace that so sent him to Goale, may by warrant under their hands and Seales, give power unto any of these officers of the place where such person shall be dwelling, or from whence he shall be committed, or where he shall have goods, by the Appraisement of 4. of the honest neighbours of the place, to sell so much of his goods, as to discharge it, and to render him the overplus. And in case such person shall not have any goods knowne within the County, whereby to make satisfaction, then that the Constables and Churchwardens, and two or three others of the honest neighbours of the Place where the said offender shall be taken (if there be any such officers there) or otherwise foure of the principall Inhabitants of the place shall make a Rate, which being con-

fir-

Churchw.

firmed by the hand of one, or more Justices of the Peace, shall binde the Inhabitants. And if any so taxed, shall refuse to pay the Rate, the same Justice or Justices that did commit the offender, or any other Justice of Peace neere adjoyning, may give warrant to any of these Officers of the place to distrain his goods there, & to sell the same. And then and therupon this officer may, & must take some of his goods, and apprise them by 4. substantiall neighbours, and afterwards he may sell so much thereof, as to pay the same Rate. And if there be any Overplus, he must deliver the same to the partie taxed.

Stat. 22. H. 8.
cap. 5.

They are to be ayding and assisting to the foure Justices of Peace, appointed and authorized for the making of Taxes for reparations of Bridges, according to the Statute 22. H. 8. For these justices are to make that Taxation by the assent of the

Num. 30.
For the mending of Bridges.

Constables, or of two of the most honest Inhabitants of the parish.

Num. 31.
For the
maymed
Souldiers
and Ma-
riners.

Every parish shall be charged Stat. 43. Eliz. cap. 3. to pay weekly such a summe of money towards the reliefe of sicke, hurt, and maymed Souldiers and Mariners, that have lost their limmes, or disabled their bodies in the Kings Service, as by the more part of the justices of Peace at their generall Quarter Sessions, holden after Easter, yearly, shall be taxed, so as no parish be rated above the summe of 10^d. nor under the summe of 2^d. weekly to be paid, and so as the totall summe of such Taxation of all the Parishes in any Countrey where there shall be above fifty Parishes, doe not exceed the rate of 6^d. for every parish.

The which summes so taxed, shall be yeerly assessed by the agreement of the parishioners, within themselves: [In the making of which Rate, the best way

is to follow the Rule of Taxation for the Poore]' or in default thereof, by the Pettie Constables and Churchwardens of the parish, or the more part of them, or in default of their agreement, by the order of the justice or justices of the Peace, living within the parish, or (if there be none) living in the parts next adjoyning. And if the parties rated refuse to pay the Rate, the Constables and Churchwardens, and every of them, or in their defaults the said justice or justices of Peace may levie it by distresse and sale of the goods of the partie, rendring to him the Overplus. And this money the Churchwardens and Constables must collect and pay to the High-Constable of the Division 10. dayes before every Quarter Sessions. And the High Constable also at the same Sessions, must pay over the same moneys againe to any one or two of the justices of

Church-wardens.

High Const.

Peace, or to the Treasurer or Treasurers of the said Collection, under paine of 40^s. to be forfeited by the High Constable for every default, and under paine of 20^s. to be forfeited by the petty Constable, for every default of his, the same money to be recovered by the said Treasurer, by sale of the offenders goods, as aforesaid, and to be imployed by him to the use of the poore maymed Souldiers and Mariners.

Num. 32.
For the
Kings
Bench and
Marshall-
sey.

The justices of the Peace, or the more part of them may at their generall Sessions holden after Easter yeerly (if they thinke meete) rate every parish weekly at their discretion, so as no one parish be rated above 6^d. nor at lesse then one halfe penny by the weeke, and so as the totall Rate of the County amount not to above 2^d. for every parish within the County. (The which money is to be distributed for the reliefe of the poore prisoners in the Kings

Stat. 43. Eliz.
cap. 2.

Kings Bench and Marshallsey, and such Hospitalls and Alms-houses, as are within the County, according to the discretion of the justices, so as there be sent out of every County yearly, 20^s. to the Kings Bench, and 20^s. to the Marshallsey, by a quarterly payment.) And this Summe in every parish must be assessed in every Parish by the agreement of the Parishioners within themselves; [In the making of which Rate, their best way is to follow the Rule of the Taxation of men for the Poore] or in default thereof, by the Churchwardens and Pettie Constables of the place, or the more part of them; and in default of Churchw. their agreement, by the order of the justice of Peace, within the same parish, (if there be any) or if not, of the justice of Peace in the parts next adjoyning. And if any person of the parish so taxed, refuse or neglect to pay the same Rate, the Churchwardens and

Hi.Const.

and Constables, or any of them, or in their default, any Justice of Peace of the said Limit may levie the same by distresse and sale of the offenders goods, rendring to him the overplus. And these Summes taxed by the justices on every parish, the Churchwardens of the Parish must collect and pay over to the High Constable of the Hundred quarterly 10. dayes before the end of every Quarter. And if the Churchwardens or Pettie Constables, their Executors or Administrators faile to pay this money, the Churchwardens, their Executors or Administrators shall forfeit 10^s. And after this, the High Constable must pay over the same at every Quarter Sessions to the Treasurers of the Countie, or any one of them. And if he, his Executors or Administrators doe not so, they shall forfeit 20^s. And these forfeitures the Treasurer may and must levie by distresse

stresse and sale of their goods,
rendring the overplus to the par-
tie. And when he hath recove-
red the money, he must imploy it
to the uses aforesaid. And if any
Action shall be brought against
any Officer for doing any thing
by vertue of this Act, he may
pleade in generall, that it was
done by authority of this Statute,
without shewing any other spe-
ciall matter. And if it passe with
the Defendant, or the Plaintiffe
be non-suite after appearance, the
Defendant shall recover treble
damages.

Pleading.

Dammas.
ges.

Stat. 39. Eliz.
cap. 4.

The Justices of the Peace, at
the Quarter Sessions, may tax
the Countie towards the Erecti-
on and maintenance of houses of
Correction. And all these Offi-
cers must doe their uttermost to
put the same Statutes in execu-
tion.

Num. 33.

For the
house of
Correct.

See in the
Office of
Overseers
of the poor.
cap. 6.

And for the rating of the pari-
shioners, & occupiers of lands to-
wards all these paiments, viz. for
the

Rates.

the Mariners and maymed Soldiers, Kings Bench, Marshalsey, &c. and for the common Gaole, &c. it is the safest way to follow the Rule of rating for the Poore. And so have the Judges of late given direction to be done in all places.

Num. 34. They are to joyne with the Churchwardens, and others, to choose Supravisors for the Highways, and to set dayes for the worke. Whereof see after in cap. 5. at large.

Num. 35. About persons that have the plague.

Any one of these Officers [in Stat. 1. Jac. cap. 31. times and places of Infection with the Plague] (if the infection be out of any Citie, Borough, Towne corporate, priviledged Place, or market Towne) may command or appoint persons infected, or being, or dwelling in any house infected, to keep their house for avoiding of further infection : and if notwithstanding, such persons doe wilfully & contemptuously disobey such direction

tion and appointment, offering and attempting to breake or goe abroad, and to resist, or going abroad and resisting such keepers or watchmen as are appointed to see them kept in: it is lawfull for such watchmen with violence to enforce them to keep their houses. And if any hurt come by such Inforcement to such disobedient persons, the said Keepers, Watchmen, and other their Assistants, shall not be impeached therefore. And every infected person so commanded by any of these Officers to keep house, which contrary to such commandement, wilfully and contemptuously goeth abroad, and converseth in company, having any infectious sore upon him uncured, becometh a Felon: But if such person have not such sore found about him, then for his said offence, he is to be punished as a vagabond ought to be by the Statute, 39. *Eliz. cap. 4.* and further

ther to be bound to his good
Behaviour for a yeere.

Num. 36.

About the
employ-
ment of
money gi-
ven for the
placing of
Appren-
tices.

They are to joyne with the
Parson or Vicar, Churchwar-
dens, and Overseers of the poore
(where any money is given for
the placing of poore children
Apprentices) for the employ-
ment thereof : of which see at
large in the Office of Overseers
of the poore, *cap. 6. num. 2.*
part 13.

*Stat. 7. Jac.
cap. 3.*

Num. 37.

In execu-
tion of the
comands
of Just. of
P. and o-
thers.

In execu-
tion of di-
vers Stat.

All these Officers ought to be
attendant, ayding and assisting to
the Justices of Peace, for the Ex-
ecution of all the Acts (made in
or before the Parliament holden
the 33. yeere of H. 8.) concern-
ing Reteinors, giving of Liveries,
Maintenance, Embracery, Bow-
staves, Archery, unlawfull
Games, Forestallers, Regrators,
Vittaille, Victuallers, and Inhol-
ders, or any of them, upon paine
to forfeit such Fines, as by two
of the Justices of Peace shall be
assessed. But these Statutes are

*Stat. 33. H. 8.
cap. 10. 37. H.
8. cap. 7.
Lamb. on the
Const. Office
23. 24.*

now

now expired : And these Officers are no more bound in this case, then they are to obey the justices of the Peace warrants and commands in generall.

Num. 38. All these Officers within *London*, or within 7: miles thereof, ought (upon request made) to ayde and assist the President of the Colledge of Physitians in *London*, and other persons authorised for the due execution of the Statutes made concerning Physitians, Apothecaries, and Surgeons. By which Statute it seems they are bound onely to execute all their lawfull Commands given to them for the due Execution of these Statutes.

Physitians.

Stat. 14.H.8.

cap. 5.

1 Mar. cap. 9

These Officers also must be ayding and assisting to the justices of Peace, and the Sheriffe, in the suppressing of Ryots, and unlawfull assemblies, according to the Statutes, upon paine of Fine and Imprisonment.

Num. 39.
Ryots.

Fitz. Office

of Just. of P.

202.

Num. 40.
Hedge-
breakers.

If a Justice of Peace send his

Stat. 43. Ells.

cap. 7.

War-

warrant to any one of these officers for the whipping of any person convicted before the Justice for robbing of Orchards, cutting or pulling up of wood, or any such like trespassse; the Officer must by himselfe, or some other see that the same be done accordingly, for otherwise for his neglect therein he is to be committed to Gaole by the same Justice of Peace, and there to be kept untill he doe procure the same person to be whipt according to the same Justice of Peace Warrant.

Num. 41. If any person without lawfull
About In. licence take upon him (except
keepers, it be at Faire times only) to keep
&c. Drunkards. a common Ale house or Tipling house, or use commonly selling of Ale, Beer, Cyder, or Perry, he shall forfeit for every such offence 20^s. to the use of the poore of the place (the offence being viewed by one Justice of Peace, or confessed by the party, or proved by one.

Stat. 1 Jac. c.
 9. 21 Jac. cap.
 7. 4 Jac. cap.
 5. 3 Car. c. 3.

one witnesse before him) And this forfeiture may be , or is to be levied by the Constables or Churchwardens of the place by warrant from a Iustice of Peace, Church-
&c. And they by virtue of such wardens.
a warrant may and must by distresse take into their hands so much of the offenders goods to pay the same. And if he pay not the money within three dayes after the distresse taken , they must apprise, and sell the same goods, and keep up the same money , and if there be any overplus, they must render the same to the party. And if the party shall not have goods, &c. or shall not pay the same within six dayes after conviction; then the Iustice of Peace, &c. may commit the offender to any of these officers to be openly whipped according to the discretion of the Iustice of Peace. The which these officers (being charged herewith) must see they carefully doe, for otherwise they may be

committed to Gaole by the same Justice of Peace, there to abide without Baile or Mainprise, untill they doe procure the same offender to be whiped according to the warrant of the Justice of Peace or untill they pay forty shillings to the use of the poore of the Parish.

And if any person licensed shall utter, or sell lesse then one full Ale-quart of the best Beer, or Ale for 1^d. and of the small, 2 quarts for 1^d. (the same being proved by one witnesse, before one Justice of Peace) shall forfeit 20^s. And if any person whatsoever, Townsman, or Stranger, shall be and abide tipling in any such house (the same being proved by one witnesse, or the parties own confession, before one Justice of Peace, or by the view of one Justice of Peace) in this case, and for this offence the Inkeeper, &c. owner of the house, for suffering this in his house doth forfeit 10^s.
for

for every such offence: And the party that doth so tiple doth forfeit for every such offence 3^s. 4^d. And these summes are to be levied by the Constables and Churchwardens by warrant from one Justice of the Peace. And if the Inkeeper, &c. have no goods to be distrained, he may be by the Justice of Peace committed to the Gaole, there to be kept untill he pay the money. And if the tipler be not able to pay his forfeiture, he is by warrant from a Justice of Peace to be made to sit in the stocks foure houres. And all these summes are to goe to the use of the poore of the Parish where the offence is committed, and are to be levied by the Constables and Churchwardens of the place by distresse, and sale of the offenders goods upon a warrant from one or more Justices of Peace. And in cases of forfeitures by Inkeepers, &c. for selling by unlawfull measures, or

Churchwardens.

Stocks.

Churchwardens.

for suffering riplers in their houses; if the Constables, or Churchwardens shall neglect to levy, or shall not levy the said severall forfeitures, or in default of distresse shall neglect by the space of 20. dayes to certifie the same defaults of distresse to the Justices of Peace, then every such Churchwarden or Constable shall forfeit for every such default forty shillings to the use of the poor of the same place, to be levied by warrant from the Justices of Peace to some indifferent men. And for want of distresse the same Constables and Churchwardens may be by any such Justice of Peace committed to the common Gaol, there to abide untill they pay the forfeiture. And for all these monneys so recovered by the Churchwardens or Constables, they shall be accountable to their successors and other the Parishioners in such sort as they usually be in other Church-reckonings or accompts.

And

Accompt.

And for the forfeitures levied by others upon the officers, they that levy the same shall be accountable therefore. And if any man be drunk, and thereof convicted, he is to forfeit five shillings for the same, which he is to pay within a week after the conviction to the Churchwardens, to the use of the poore of the place, to be levied (on the neglect or refusal of the party to pay it) by warrant from the Court, Judge, or Justices before whom the same conviction was upon the offenders goods; and this warrant may be made to the Constables or Churchwardens. And if the party be not able to pay it, then he is by warrant from the Justice of Peace to be set in the Stocks, and there to sit six houres; And for the second offence, he is to be bound to the good behaviour.

And all these officers, Churchwardens and Sidemen are in their Oathes incident to their offices to

Constables,

be charged to present the offences against the Statutes of 1 *Jac.* and 4 *Jac.* which are for selling by unlawfull measures, tipling, and suffering tipling, and drunkenness. And in cases of forfeitures for drunkenness, and for tipling against the tiplers themselves, and for not making presentment being required; if these officers, or the Churchwardens shall neglect their duty in levying the said penalties, and due correction of the offenders as aforesaid, they shall forfeit for every default 10^s. to the use of the poor to be levied as aforesaid by warrant from the Justice of Peace, &c. But for drunkenness, or tipling, no man may be prosecuted after six moneths after the offence committed. And yet for suffering tipling, and selling by unlawfull measure, the Alehouse-keeper, &c. may be punished at any time. In all these cases, and upon all these Statutes, these officers

officers are to take care when any warrant is sent unto them from any Justice of Peace, Major, Bailiffe, &c. that they see it duly and carefully executed for feare of the severall punishments aforesaid.

Stat. 37 Jac.
cap. 20.

If any prophanely swear, or curse (and he be questioned for it within 20. dayes after the offence committed) he is to forfeit for every time he so doth twelve pence, to the use of the poore of the Parish where the offence is done : And this may be levied by warrant from one Justice of Peace by the taking, and sale of the offenders goods, rendring to him the overplus. And if no such distresse can be had, he is to sit in the Stocks 3. houres. And if the offender bee under the age of twelve years, he must forthwith pay the money, or else he must be whipped by his parent, or Master in the presence of the Constable. And if any officer shall be sued for

Num. 42.
Against
Swearers.

Stocks.

Pleading.

Costs.

Church-
wardens.Overseers
of the
poore.Against
prophaners
of the Sab-
bath.

doing any thing herein, he may plead the generall issue, and if it passe with him, or the plaintife be non-suit, the defendant shall have good costs. If any man be duly convict of this offence, and a warrant be sent by any Justice of Peace, or other person having authority to any one of these officers, or to the Churchwardens or Overseers of the poore for the levying of these forfeitures; they are to take care to doe the same accordingly.

No Meetings, Assemblies, or Stat. I Car.
cap. 1.
concourse of people for any sports or pastimes whatsoever, may be on the Lords day, called Sunday, by persons out of their own parishes: Nor any Beare-beating, Bull-bayting, Enterludes, Common playes, or other unlawfull excercises, or pastimes [to the prophanation of the day] may be used by any persons within their own parishes, under paine (if the party bee questioned for it within

within one moneth after the offence committed) to forfeit for every such offence 3 shillings 4 pence to the use of the poore of the Parish where the offence is committed, to be had by sale of the offenders good ; or otherwise the party must sit 3 houres in the stocks. And this must be levied by any one of these officers or of the Churchwardens. And therefore if any man be duly convicted of this offence before any one to whom power is given by the Statute to convict any man for the offence ; and he send his warrant to any one of these officers, or to any one of the Churchwardens, he must see that he doe execute it accordingly, *viz.* distrain, and sell so much of the parties goods as to pay the forfeitures, and to deliver over the same money to the Overseers of the poore of the same Parish : and if there be any Overplus, to render the same to the party. And if any of these

Stocks.

Church-wardens.

Pleading.

these officers be sued for this, he may plead the generall issue. But as touching this matter, let these officers heed the Kings declaration published in print *in anno Domini 1633.*

No Carrier with any Horse or Horses, nor Waggon men with Waggon or Waggon, nor Car-men with any Cart or Carts, nor Wain men with any Wain or Wains, nor drovers with any cattell, may by themselves, or others travaile on the Lords day, under paine (if he be questioned for it within 6 months after the offence, committed) to forfeit 20 shillings to the use of the poor of the place for every time he so doth. And no Butcher may by himselfe, or any other sell any meat on that day under pain (if he be questioned as aforesaid) to pay for every offence to the use of the poore of the place six shillings four pence. And these summs are to be levied of them that offend by the taking
and

Stat. 3 Car. c.
1. 27 H. 6. c.
5. 1 Jac. cap.
21. 5 & 6 E.
6. cap. 3.

and sale of their goods, as in the last. If therefore any man be duly convict of this offence before one that hath authority given him by the Statute, as Justice of Peace, Major, &c. and he thereupon send his Warrant to any one of these officers, or to either of the Churchwardens; it is their duty to execute the same warrant, viz. Church- take and distrain the goods of the offender, and then sell the same goods to the make mony, and then render to him the overplus if there be any. But if in this case one be convicted upon this Statute, for driving of cattell through severall Parishes, he shall for this offence forfeit but one 20 shillings, and the Parish where the Action is first attached, or distresse taken, shall have it, and none of the other parishes. And so hath it been resolved by the Judges.

Num. 44.

Stat. 7. Jac.
cap. II.

He that hath a free Warren, or is long Lord of a Mannor, or hath land of inheritance to the value
Against
takers of
Phefants
and Par-
of tridges.

of forty pound *per annum*, or hath Land in his own or wives right for term of life, or lives to the value of 80 pound *per annum*, over and above all charges, or hath goods or chattels to the value of 400. pound, may by himselfe or servants, (sufficiently authorized by him) take Pheasants and Partridges (in the day time only) in and upon his and their own, or his and their Masters free Warren, Mannor, and Freehold between *Michaelmas* and *Christmas* with any setting dogs, or nets. But none others may doe so under pain to forfeit 20^s. for every offence, and to be sent to Gaole untill it be paid. And every one of these officers in every place (bringing with him to that purpose a lawfull warrant under the hands of two Justices of the Peace of their County, City, &c.) may enter into and search the houses of any person or persons (other then such as are allowed

Stat. 13 Eliz.
cap. 10.

lowed to take Phefants, and Partridges, as aforefaid) being suspected to have any setting dogs, or nets for the taking of Phefants and Partridges. And wherefoever they finde any such setting dogs or nets, the same to carry away and destroy as things prohibited and forfeited to such officers, as so shall finde the same. And if any kill or destroy any Phefants or Partridges, with any nets, engines, rowffing, lowffing, or such like devises in the night time, he shall forfeit for every Phefant 20^s. and for every Partridge 10^s. the one half to the Lord of the place, and the other halfe to him that will sue. And if the Lord shall dispense with, or procure any such taking, then the Churchwardens of the place may sue for, and shall recover that halfe of the forfeiture which the Lord should have, to the use of the poor of the parish: Thewhich if the offender doe not pay to the

Church-
wardens.

the Churchwardens within 10. dayes, he shall be committed to prison for one moneth, without Bayle or Mainprise.

Num. 45.
Against
taking of
Fish.

No person that shall fish in any Haven, Harbour, or Creeke, or within 5. miles of the mouth of any Haven, or Creek of the Sea, shall fish with any draw-net, or drag-net under three inches meash, viz. an inch and a halfe from knot to knot (except for the taking of Smoulds in *Norfolke* onely) or with any net with Canvas, or other Engine, or devise, wherby the spawne, brood, or fry of Seafish may be destroyed, under paine to forfeit the net, and 10. shillings for every time he shall so doe, the one halfe to the use of the poore of the place where the thing is done. The which is to be levied by warrant to the Constables and Churchwardens to sell the parties goods. If therefore any such warrant come from them that have authority,

Stat. 3. Jac.
cap. 12.

Churchw.

ritie, to any of these Officers so to doe, they must execute the same accordingly, viz. distraine and sell so much of the parties goods, and if there be any overplus, to render the same unto him.

Stat. 39. Eliz.
cap. 19.

The forfeitures against the Statute for the amendment of the Highwayes in the wealds of Kent, Surrey and Sussex, ought after conviction thereof to be levied by these Officers, by distresse upon warrant from the Clerke of the Peace in open Sessions, or from two of the Justices of Peace, that were at such Sessions, the one of them being of the Quorum.

Num. 46.

in Kent

Surrey and Sussex.

Stat. 3. Jac.
cap. 4.

If any warrant be sent to any of these Officers for the taking of Popish Recusants excommunicated, they must see they doe execute the same accordingly.

Num. 47.

Popish Recusants.

Stat. 1. Jac.
cap. 31.

These Officers must levie such moneys, as they are commanded by warrant of Maiors, &c. and Justices.

Num. 48.

Plague.

Justices of Peace (having taxed the same for the reliefe of the poore, infected with the plague) under paine to forfeit 20. shillings for every default, to the use of the persons infected.

Num. 49. And finally, in all cases, where Stat. 33. H. 8. cap. 9. See the Constables Oath. Kitch. 47.
 How farre any warrant is sent from any Justice of Peace, to any of these Officers, touching any matter whatsoever concerning the Office of the Justice of Peace, it seems he is bound to execute it. And therefore it seems, that in all cases, where any Statute doth enable a Justice of Peace to apprehend any person to be brought before him, or to commit any person to the Gaole, as in the cases of those that keepe unlawfull games in their houses, or haunt such houses, or in the case of men that shoot in, or carry Guns, or the like, that in all these cases the Justices of the Peace are to command these officers, and they are to obey them. See before Jumb. 19. And in all these

these, and such like cases, where the Statutes do enable a Justice of Peace to proceed against such an offence, and offender, and the Justice of Peace doth proceed erroneously therein, and exceed his Authority, that notwithstanding in these cases these Officers are bound to obey the Justice of Peace. And therefore that whereas the Statute of 23. *Eliz. cap. 10.* is that if the offender doth not pay to the Churchwardens the forfeiture within 10. dayes he shall be committed to Prison, and the Justice of Peace command the officer to carry him to prison before the 10. dayes; that in this case, the Officer is bound to obey the warrant, and he shall be excused in so doing: and yet if a Justice of Peace shall send a warrant to one of these Officers, to command him to take and sell the one halfe of the goods of a man convicted before him for swearing 6. oathes

L

(for

(for which the forfeiture is but 6^s.) when perhaps the one halfe of his goods may be worth 100^l. it shall be the wisdom of an officer to be well advised ere he execute such a Precept. But regularly all such precepts and warrants, as these Officers time out of minde have been used to obey and execute, whether they have been directed and sent to them from the Justice of Peace or any other; these they may safely, and must surely execute and obey. And if any warrant shall be directed unto them to doe any new or strange thing, it is good for them to be well advised ere they execute it.

All the things before rehearsed, whether they concerne the preservation of the Peace, or any other matter which these Officers by the Common Law may doe, may (as it seems) be done, and executed indifferently by any of these Officers within the Precinct

cinct of his Authority, as well by the High Constable of the whole Hundred, or Franchise within his Hundred, or Franchise, as by the pettie Constable, &c. within his Towne, Parish, Tithing, &c. and that so, as none of them hath more power of office therein then another, although some of them have longer limits of place then the rest. But now wee are come to such things as are said severally and distinctly to belong to the office of the High Constable, so as the Pettie Constables, Tithingmen, &c. may not medle therewith.

Stat. 4. Ed. 4.
cap. 1. Fitz.
Justice of
Peace, 203.

The makers of cloth shall pay to their Carders, Spinners, and other Labourers, in lawfull money [and not in pins, girdles, or such other things] for their worke, under paine to forfeit three times so much as their wages. And they must deliver them their wooll by due waight. And the Carders, Spinners, Fullers,

Num. 50.

Highcon.
wherein
his office is
singular, &
beyond the
Office of
the pettie
Constable.
Against
Clothiers
and their
workmen

Dyers, Sheerman, and other Labourers, shall doe their worke faithfully, under paine to forfeit double dammages. And the Constable of the Hundred may heare and determine the complaints of every such Clothier and Draper, as well for not payment of the wages of the Labourers, as of the forfeiture and dammages by due examination of the parties. And hereupon also for not paiment of the said duties, forfeitures, and for the dammages to commit the Trespassers to the next Gaole of the same County, untill the said duties, forfeitures, and dammages be paid.

Num. 51.
In receiving and paying the money raised for reliefe of Prisoners in the common Gaol.

The Justices of the Peace, or the more part of them, at their Quarter Sessions, may rate every parish within the shire, at such summes as they shall thinke fit towards the reliefe of the poore prisoners within the common Gaole of the County, so as it exceed not 8^d. a weeke in every parish.

Stat. 14. Ed.
cap. 5. Sec.
ter, in the
Office of C.
lector for
the Gaole,
cap. 4.

rish. And this the Churchwardens must levie [within their parishes] on the Sundaies; and once every quarter they must pay the same to the High Constable, who must also pay over the same againe at the next Quarter Sessions of the same Countie, to such Collectors living neere the same Gaole, as the said Justices shall there appoint to receive it. The which Collectors are to distribute the same weekly, according to the said justices appointment, under paine of forfeiture of 5^l. by every one of these officers making default herein.

Churchwardens.

They are to receive the monies rated by the Justices upon the County, for the reliefe of the poore Prisoners in the Kings Bench, and Marshalsey, quarterly from the Churchwardens of the parishes within their division, 10. dayes before the end of the Quarter. And then they are at the next Quarter Sessions, to pay

Numb. 52.

In receiving and paying the money rated for the Kings Bench and Marshalsey Churchwardens.

over the same to the Collectors appointed by the Justices, under Paine of 20^s. for every default.

Num. 53.

In receiving and paying the money rated for maymed Souldiers and Mariners. Churchwardens.

They are also to receive the moneys rated by the Justices of Peace on the County, for the reliefe of maymed Souldiers and Mariners, 10. dayes before every Quarter Sessions, from the Churchwardens and Constables of every Parish within their Division. And then the High Constable at the same Sessions must pay over the same money to any one or two of the Justices of the Peace, or to the Treasurer of the County for this purpose, under paine of 40^s. to be forfeited for every default. But in these three last cases, it seems the High Constables doe now usually send out their warrants to the Pettie Constables, and Churchwardens to require them to bring in the moneys aforetaid: By the Kings

Num. 54.
Against
Pettie Con.

speciall direction in *Anno Dom.* 1630. the High Constables were char-

stat. 43. Eliz.
cap. 3. Before
Numb. 31.

Published
print, 1630

charged to looke to the Pettie Constables, that they be diligent in their Offices, and that they should present to the Justices of Peace, the defaults of the Pettie Constables in their not punishing of Rogues, or not presenting those that are relievers of them, and of Beggars. Rogues.

Stat. 5. Eliz.
cap. 4.

The High Constables in all such Shires where the Pettie Sessions for servants and labourers (otherwise called Statute Sessions) were used to be kept before 5. Eliz. may yet still hold their Sessions, so that nothing be done in them contrary to the Statute of Labourers and Servants, made 5. Eliz. cap. 4. Num. 55. In keeping the petty Sessions.

Stat. 39. Eliz.
cap. 10.

Any Head Constable (by which is meant a High Constable) may enter into any house, land, or other place, to search for any Tenters, Ropes, Rings, Heads, Wrinches, or other engines that are used about the stretching of cloath, against the Num. 56. Against them that doe stretch Cloath. Search.

Statute of 39. *Eliz. cap. 20.* And if they find any such, they may deface them. And if the owners shall afterwards use them, these Officers may take and sell them, and give the money made thereof to the poore.

Num. 57. *Norfolke* at their Sessions may appoint so many of the daies work appointed for the High-ways, there to be bestowed upon the Sea-bankes, and Sea-workes in *Norfolke*, that are not to be repaired by any particular person, or place, as they shall think meet. And those men of the Countie, that live neere to the places, where the same Seaworks are, must doe the same. And the same Justices of Peace in their Sessions, may appoint the High Constable of the Precincts, where in such places are Surveyors of this worke: who being so appointed, must take care to undertake, & see the same to be done under paine to for-

For reparation of the Sea-banks in *Norfolke*.

Stat. 39. Eliz. cap. 24.

forfeit for every default, 20^s.

Stat. 2. & 3.
Ph. & M.
cap. 3. & 5.
Eliz. cap. 13.

Estreats indented, ought to be made by the Clerke of the Peace, and by the Steward of the

Num. 58.

About 4

highwayes.

Leete, of all forfeitures arising in the Sessions of the Peace, or in the Leet upon the Statutes of Highwayes: of which Estreats, one part ought to be delivered yeerly within six weekes after *Michaelmas*, to the High Constable of the Hundred wherein the defaults were committed, and the other part to the Constables and Churchwardens of the parish wherein the defaults were, to the end that such High Constable may thereby levie by distresse the same Forfeitures, or the double thereof (if no distresse can be found) or if such forfeitures be not paid within 20. daies after a lawfull demaund of the same by the same Officer, and to the intent also that the said Constables and Churchwardens may thereby call the said High Constable

Petit Con.
Churchw.

Church-
wardens.Numb. 59.
In making
Present-
ment.

stable to an Account before two Justices of the Peace (the one being of the Quorum.) For the said High Constable is once every yeere between the first day of *March*, and the last day of *April*, to make a true account and paiment of all such summes of money, as hee hath received by means aforesaid to the pettie Constables and Churchwardens of the place where the offence is committed, or any two of them under paine of 40^s. And this if they refuse to doe, they may be compelled unto by the Churchwardens, by the help of any two Justices of the Peace (the one being of the Quorum.) And this money is to be bestowed by the Churchwardens on the highways of the parish. And upon this Account, the High Constable is to have for his paines 8^d. for every pound he hath levied and paid.

All these Officers, viz. the High Constables, Pettie Constables,

Stat. of Win-
chester.
cap. 5.

Stables, Tithing-men, &c. ought to make Presentment to the Justices of Peace, and to all other Justices thereto assigned, of the defaults of Watches, and of the defaults of High-ways not enlarged, so as no ditches, under-wood, or bushes be on every side of the same (if they be such, as wherein a man may lurke to doe hurt) within 200. foote. And also of such as doe lodge strangers in uplandish townes, for which strangers they will not answer.

stat. 3. Jac.
cap. 4.

The Churchwardens and Constables of every Towne, Parish, or Chappell for the time being, or some one of them; or if there be none such, then the chiefe Constables of the Hundred, where such Towne, Parish, or Chappell is, or shall be, or one of them, as well in places exempt, as not exempt, once in every yeere shall present [at the Quarter Sessions] the monethly absence from Church of Popish Recusants.
Recu-

Recusants within such Townes and Parishes, and shall present the names of every of the children of the said Recusants, of nine yeers old and upwards, abiding with their said parents, and as neere as they can, the age of every of the said children; as also the names of the servants of such Recusants, under paine of 20^s. for every default. And if upon such Presentment, the partie doe happen to be indicted, and convicted (not being presented before for the same absence) the same Constable that made this presentment is to have a reward of 20^s. out of the goods of the Recusant.

And finally, all these Officers, when they are thereunto required, must make Presentment to the Judges of Assise, Justices at their Quarter Sessions, and Stewards at their Leets, upon any articles or matters given to them in charge, as belonging to their office, as for bloodsheds, outcries, affraies,

Experience.
See the Constables Oath.
Kitch. 47.

La mb. in the
Constables
Office. 54.

affraies, rescous, and the like.

There are also in some places Constables of Towns, or Parishes that are Head officers, and have others under them. And these in some Corporate Towns, are part of the name of their Incorporation. And in some places they have other officers under them. And this officer is in some Statutes called a high Constable. And to him do some of the things aforesaid belong in common with other Constables, as to make a Testimoniall for a Servant to goe into another Parish, to compell an Artificer to work in the Harvest time, and some other things: And some other things there are that are said to belong to the Constable of a Town only, and to none other of the officers aforesaid, as the things hereafter mentioned, *viz.*

Nam. 60.

Stat. 3. H. 6.
cap. 5. 11 H.
7. cap. 4.

1. Every City, Borough, and Weights Market Town, that hath a Constable ought also to have common

mea-

measures sealed, and also common weights sealed, at which the Inhabitants may freely weigh.

2 The Major, Sheriffes, Bailiffes, Constables and other Head officers within every City, Borough, and Town where any such officers be, ought under pain of forty shillings, for every default once every moneth at the least, to make search (as well within liberties, as without) in all places where any unlawfull games shall be suspected to be kept, and may arrest and imprison as well the keepers of such places, as the haunTERS to the same, till they be bound no more to keep and haunt such places. And if any such Head Officers shall finde or know that any Artificer, Craftsman, husbandman, apprentice, labourer, servant at husbandrie, Journeyman, or servant of Artificer; or that any Mariner, Fisherman, waterman, or serving-man doth play at the tables, dice, cards,

Stat. 33. H. 8.
cap. 9.

Unlawfull
Games.

cards, rennice, bowles, closh, coyting, logating, or any other unlawfull game, out of Christmasse time, or out of their masters house, or presence in the Christmasse time, unlesse it be by the licence of such Masters, as hath 100^l. by the yeere, or above, and then also that playing be within the Precinct of such Masters house, garden or orchard: then such head Officer may commit such offender to ward till he shall be bound by Obligation (to the Kings use, in such summe, as to the discretion of such Officer shall be thought fit) that he shall not from henceforth use such unlawfull games.

Cowpers. 3 In all Cities, Borrowes, and Townes wherein no wardens of Cowpers be, the Majors, Sheriffes, Bailiffes, Constable, or other head Officers there have power to search, view, and gawge Barrells, Kilderkins, Firkins, and other vessells to be made there, and

Stat. 3. H. 8
cap. 4.

and to take such advantage thereby, and in such manner, as the wardens of Cowpers within the Citie of London may take on every behalfe.

Merchandize.

4 If any Woolls, or other Merchandizes be shipped to the Staple, in any suspected place adjoining to the coast of the water, then Indentures ought thereof to be made between the owner and the Major, or Constable of that place; or otherwise such Merchandize shall be forfeited. 14 H. 6. cap. 5.

Making of Malt.

5 The Constable of every Borough, or Market Town, or other Town, may view, search, and survey all such malt as shall be made, or put to sale there: and if he shall finde any barley-malt made at any time, (the moneths of June, July, and August only excepted) but that the same shall have the space of three weeks (at the least) in the far, floore, steeping, and such suffici- Stat. 27. Eliz. cap. 14.

floore, steeping, and such sufficient drying thereof, and in these three months the space of seaven-teen dayes at the least. And if he finde any person to put to sale any good malt mingled with malt not sufficiently made, or with malt made of mowburned, or spired barley, or to put to sale any malt not sufficiently well troden, rubbed, and fanned, whereby halfe a peck or more of dust may be fanned out of one quarter thereof: then may such Constable (with the advise of one Justice of Peace in that shire) cause the same malt to be sold to such persons, and at such reasonable prizes (under the common price of the Market) as to his discretion shall seem expedient.

Plague.

See before
Numb. 35.

6 Where the Plague is in any City, Market Town, &c. the Major, Constable, &c. may command the persons being or dwelling in houses infected to keep in, which if they

M

will

Constables,

will not obey, they shall be punished, as is shewed before.

All these things last aforesaid, appertain only to the head Constable of Market and great towns, and the high Constables of Hundreds and petty Constables, and Tithingmen of Parishes, and Tithings have no power nor charge at all therein.

It is said upon the Statute of *7 Jac. cap. 3.* for the imploiment of money given for the binding of Apprentices: the Statute of *3 Jac. cap. 12.* against the destroying of Fish: the Statute of *1 Jac. cap. 4.* for the presenting of Recusants: the Statute of *1 Jac. cap. 31.* against them that are infected of the Plague: The Statute of *1 Jac. cap. 29.* against them that dresse meat in the Lent and some others; that upon these Statutes Borsholders, Tithingmen, Headboroughes, and such like officers being in Towns or Parishes (underneath Constables

Lamb. in the Constables office 62, 63.

Bles that be there) have not to doe nor may meddle, because such Constables be in comparison of them called head Officers; But where no such head officers are, nor any officers in the place that are called by the name of Constables, but they are called Tithingmen, Chiefe, Pledges, Borsholders, or by some other name; there out of doubt these officers are intended by the word [Constable] within the Statutes, and they have the same Authority and charge by the same Statutes as the Constables have.

And now to shut up all concerning these officers, and their offices, these generall things, some as touching their worke, and some as touching their reward, hereafter following, must be observed.

I That which hath been said before of one of these officers must regularly be understood of all the rest, except it be in the

M 2

cases

cases before set down, wherein the Office of the High-constable of the hundred, and of the head Constable of a Towne, are in some few things singular; so that as the Constable of a Parish is to labour to keepe the Peace, suppress felons, execute the Justice of Peace his warrant, and the like; so is the Tithingman, Borsholder, Burrowhead, Thirdborrow, and chiefe pledge of a Parish to doe the same; And this officer where he is called by this name within his precinct, hath the same authority in all things, as the Constable hath within his precinct.

2 All the cases herein set down touching the Office and duty of these Officers must be so understood, as to give them Authority, and to charge them within their owne limits and precincts only, and no further; for howsoever these officers are bound, to look to the Peace, to suppress felons, execute the Justices warrants,
and

and the like; yet all this is to be understood within their owne Hundreds, and Tithings, only, within which only they have authority and power (except it be in some speciall cases shewed before, for out of the compasse of their Hundreds, Tithings, and Parishes, they have no more authority then a private man, neither are they more bound there to doe any of the things that doe belong to their office then any other man is.

Bro. Ry.
of 3. Trespas.
431.3.
H. 7. 10. 13.
H. 7. 10. 38.
Ed. 3. 8.
Dalt. Just.
of Peace,
303.

3 That in cases of pursuit, and Aide, apprehension of felons, and carrying them to Gaole; in cases of suppressing Insurrections, allaying of affraies, keeping of the Kings Peace, execution of the warrants of Justices of the Peace, and the like, any of these Officers (when need shall be) may require the aide and assistance of so many of his neighbors, or others, of all sorts of able men above 15. years of age, as hee shall thinke meete.

M 3 And

And so also hee may doe in case where a man is hurt, and dangerously wounded, for the apprehending and arresting of him that gave the wound. And so also he may doe, when a warrant is sent unto him for the apprehending of a Popish Recusant, by special provision of the Statute of 3 Jac. cap. 4. And if any such person being required by any of these officers in any such case, shall refuse or neglect to aid them, he may be fined and imprisoned for it at the quarter Sessions.

4 These officers if they cannot otherwise get in, may justifie the breaking open of any mans house in these cases following, viz. to search after, or arrest any person for Treason or Felony, or suspicion thereof, that is, or is thought to be, in the house: to take a man that hath dangerously hurt another, and is fled into the house: to appease an affray that is in the house

Breaking
of a house.

Co. 5. 92. Dalt
Just. of p.
176, 177.
13 Ed. 4. 9.
Stat. 3 Jac. 6

house : to apprehend a Popish Recusant Excommunicate, upon a Warrant to breake open the house: upon a Warrant for the Peace, or good behaviour : By the opinion of *Popham* and *Cierke* Judges of Assise at *Cambridge* : And so generally in all cases, wherein the King is party, or when he hath any interest in the businesse. But in all these cases, the officer before he doth break open the house must signifie the cause of his comming and require them to open the doores.

Pl. 37. Dalt
Just. of p.
29.

5 Where an officer hath power to arrest a man, and being comming to doe it the party doth fly into another County or Hundred; in this case the officer may presently pursue him whither so ever he shall fly, and arrest him there, albeit it be in another Hundred or County out of his own precinct.

Fresh per-
suit.

Arrest out
of the offi-
cers pre-
cinct.

To what
Gaole a
prisoner
must be
caried.

6 If a man commit a felony in one County, and be arrested

M 4 in

Constables,

in another County for the same, by the fresh pursuit of the officer, or some other pursuing him thither; in this case the Prisoner must be caried to the Gaole of the County, where he is taken, and not to the Gaole of the other County. And if a Constable be comming to arrest affrayors, and they fly into another County, and he pursue and take them there; in this case, he must bring them before a Justice of Peace of the same County where they are taken; where the officer can doe no more than a private man: But if the flight be only into a privileged, or other place in the same County; in this case the officer may in his fresh pursuit thither take him, and dispose of him as an officer, and if he took him within the limits of his own Parish. And if a Constable arrest a man upon a Warrant from a Justice of Peace, and after the arrest the party (of his own

Dalt. Just. of
p. 297, 298.

own wrong) getteth away, and
flieth into another County; in
this case the officer may pursue
him and take him there, and
bring him back to the same Ju-
stice of Peace, from whom the
Warrant came.

Co. 4. 40. 9.
96. Bro. tref-
passe 296. 21
H. 7. 39. Lam.
Just. of p. 29.
298. Dalt.
Just. of p. 297

7 It is dangerous to oppose or
hinder these officers in the doing
and execution of their offices;
For to kill any one of these offi-
cers, in the doing of his office, is
wilfull Murder, and causeth un-
avoydable death; to beat or
wound any such officer in the
doing of his office, is a great Tre-
spasse to be recompenced with
great damages: and otherwise,
to abuse any such officer in the
doing of his office is a great mis-
demeanour; that may cause the
offender to be bound to the good
Behaviour. And if the party that
is to be arrested shall make resi-
stance, make an assault upon the
officer, or labour to get away;
the officer may justifie the bea-
ting,

Resisting
an officer.

Murder.

Trespasse.

Good be-
haviour.

Beating.
Stocks.

ting, yea & the wounding of him also, or he may imprison him in the Stocks for the time. But upon a Warrant of a Justice of Peace for the peace or good behavior, if the party resist or fly before he be arrested it is said the officer cannot justify the beating of him; yet if the officer please, he may soon arrest him, for if he be a known of-

Arrest.

ficer, and doe but say to the party, I arrest you in the Kings name, albeit he never lay hands upon him; this is an arrest in Law. And if a Warrant be

And so was the opinion of the Lord Keeper and the Lord chiefe Justice. 5. Car. See before Numb. 15.

Murder
justifiable.

sent to any of these officers to arrest one indicted of felony, he may justify the killing of the party if he cannot otherwise take him, or if he resist and fly when he is taken.

Fitz. Cor. 31
288, 328.

When an
officer may
imprison a
man in an-
other place
then the
common
prison.

8 Where any one of these officers hath arrested a man, and hath power to imprison him, it is held, that he may not imprison him in his own house, or in any other place but the common
Prison

Fitz. Barro
202. 20. E. 46.
10 Ed. 4. 17.
21 Ed. 4. 35.
3 H. 4. 9 Kelw
45. 11 E. 4. 7.

Prison, and the Prison also of the same County, for he may not cary him to the Gaole of another County, except it be in some speciall case, as where one Gaole doth serve for divers Counties, or the like: And yet upon reasonable cause, as because it is night, or because the officer doth want strength enough to cary him to the Gaol or to the Justice, or because he doth feare a Rescue will be made upon him, or the like, in these cases, the officer ^{Stocks,} may put the party in the Stocks, and keep him there for a reasonable time, viz. untill the morning, if it be at night, or untill he can be conveniently provided for strength and aide to cary him to Prison, or to the Justice of Peace. But some say that an officer may keepe a Prisoner in the officers own, or in another mans house for a time convenient, and justifie it: wherof others much doubt. And therefore the safe way is
10

Lamb. just. of
p. 3 cap. 3.

to keep him in the Stocks, or carry him to prison.

How an
officer may
use a Pri-
soner.

9 If the Prisoner put in the Stocks be taken for felony, or suspicion of felony; in this case the officer may lock the Stocks, and if need be, he may also put Irons on the Prison. And if the officer be to convey him to the Gaole, or to the Justice of Peace, he may pinion him or otherwise make him sure that he shall not escape.

Dalt. Just. of
p. 300.

Dalt.
p. 29

10 If a private man that is no officer take another man for felony, or for suspicion of felony, within the precinct of any of these officers, and bring and deliver the prisoner to the officer of the place; in this case the officer is bound to see the Prisoner safely conveyed to the Gaole; for if he suffer him to escape, he must answer for him: And so also it is, if there be no officer in the place, where the felon is taken, and the party carry him, and deliver him

10 Ed. 4. 17.
Fitz. office of
Just. of p. 201

Escape.

him to the officer of the next place, for it seems this officer also in this case is bound to looke to him at his perill.

Dalt. Just. of
p. 292.

II When any one of these officers hath arrested any man for any cause, the officer must take great heed that he doe keep the Prisoner safe, and not suffer him to escape, especially if the Arrest be for matter of felony, for in this case if he willingly suffer him to escape, this offence is felony in the officer: And be the cause of the arrest whatsoever it will; if the officer doe willingly or unwillingly, and negligently suffer him to escape, and doe not take him againe, he shall be fined for it according to his offence by the discretion of those that shall be Judges of the cause, for officers in these cases may require what help they will. And lest any officer should flatter himselfe that he may escape with an easie Fine, hee is to know that the judges

Escape.

11 H. 4. 25.
Statut. 35.

Ayd.

judges of his fault may set his Fine equall with the value of all his goods, if his offence so require. And if an officer take a man upon warrant from a Justice of Peace and then letteth him go, and taketh his word that he shall come againe to him such a day to go to the Justice of Peace, and the party cometh not; this is an escape in the officer for which he may be punished, and the officer (as it seems) cannot now arrest him upon this warrant. But if the party in this, or any such like case, escape of his own wrong, without the consent of the officer, the officer in a fresh pursuit may take him againe, albeit he be out of sight, and out of his precinct also, as is before shewed.

12 The conveying of the prisoner to the Gaole must be at the prisoners own charge if he have means, otherwise at the charge of the Town where he is taken.

See before
Num. 29.

13 The

Stat. 4. Ed. 3.
c. p. 10, II Ed.
4. 7 Bro. Faux
Impr, 24, 25,
27.

13 The Gaoler must receive the Prisoner offered unto him freely without taking any thing of them that bring him. But it is said that a Gaoler is not bound to receive any prisoner except it be from an officer immediatly, or by a Justice of Peace warrant. And if a man be arrested for felony, and the Constable cary him to the Gaole, and the Gaoler will not receive him; it is said the Constable must bring him backe to the town where he was taken, and that the town must be at the charges of keeping of him, untill the next Gaole-delivery. But howsoever the Officer must looke to him for feare of an Escape. And in this case, the best way for the officer is, to get a Justice of Peace his warrant, to send the prisoner to the Gaole; and hereupon the Gaoler doubtlesse will receive him.

Duty of
the Gaoler.

In what
case an offi-
cer may set

Fitz. office of
Just. of Peace
130.

14 These officers albeit they have power in divers cases before shewed

a Prisoner
at libertya-
gaine.

shewed to imprison a man, yet have they not power in any case to deliver a man imprisoned againe. And therefore if a Constable in case of an affray commit an affrayor to the prison, the Constable may not afterwards set him at liberty againe, or if he take a man upon suspicion of felony, and he doth afterwards perceive some cause to make him to believe the party apprehended is innocent in the matter, yet may not the Constable deliver him, but he must continue in prison untill he may be delivered by order of Law, either at the Sessions or otherwise as the case shall be. And yet if an officer shall only put the affraiors apart into the Stocks, or into some house or room (as it seems he may) untill the heat be past; in this case the officer of his own head may set them at liberty againe.

What pleas
these offi-
cers shall
have being
sued,

15 If any of these officers shall be
sued

Stat. 21 Jac.
cap. 12.

sued for any thing done by them in the execution of their offices, or if any suit be brought against their deputies, or any others which in their aid or assistance, or by their commandement shall doe any thing touching their offices; this action must be laid in the County where the thing was done, otherwise the Defendant shall be found not guilty however the case be. And in all actions brought against them for the causes aforesaid, they need not plead the speciall matter, but may plead the generall issue, and give the speciall matter in evidence. And if the verdict upon tryall passe with the officer, or the plaintiffe be non suite, or suffer his action to be discontinued, the Defendant shall recover his double costs sustained in the said suit.

stat. 7 Jac. c.
7.

Costs

16 These officers and all the rest hereafter named must take care that they take nothing of a-

Extortion

N ny

ny man for any work they doe in the execution of their office more then is allowed them, and is their due, for this offence in them is extortion and punishable by fine and imprisonment.

Account

17 These officers aswell as others are to give an account to the parishioners of the moneys they doe any way receive. And this if they refuse to do, they may no doubt be compelled unto.

Expences
and dis-
bursements
of officers.

18 And as touching the disbursements of these officers about the execution of their office, as for the carriage of Prisoners to Gaole, the conveying of Rogues, and the like: where by any speciall Act of Parliament they are to be allowed it or any thing towards it, and the means of recovering it is set down, there they shall have the same allowance, and they must pursue that means for the recovery of it: But in other cases it seems very reasonable that they should bee allowed it againe

again from the parish : And if the parish will not allow it, perhaps the Justices of Peace upon the complaint of the officer may devise some way to relieve him. But as touching their ordinary expences for meeat, drink, &c. in their travailes, for these it seems there is no remedy, but that the officers themselves must beare it. Howbeit in these things the custome of the place is to be continued.

CHAP. II.

*Of the Treasurers of the County
stock for reliefe of poor maimed
Souldiers and Mariners,
and their office.*

Stat. 43. Eliz.
cap. 3.

THE Treasurers of the County stock for the reliefe of poore maimed Souldiers and Marriners, are certaine officers yearly appointed by the Justices of Peace to have the charge of the

Num. 1.
What they
are, and
how they
are chosen.

receipt and disbursement of the money taxed and levied upon the whole County yearly for the reliefe of poore maimed Souldiers, and Mariners: For the Justices of the Peace are yearly at their quarter Sessions about Easter to choose and appoint one or two persons (according to their discretion) of the County for the taking and distributing of the moneys of the County collected for the reliefe of the poore maimed Souldiers and Mariners. And the men so appointed (by the words of the Statute) must be such men as at the last taxation before for the Subsidie were valued at ten pound in lands yearly, or fifteen pound in goods. [But if they bee sufficient men, this it seems is not stood upon] And these are to continue in their office one year and no longer, and then others are to be chosen in their room.

Num. 2.
Their office and duty.

The office and duty of these
of Stat. 43. Eliz.
cap. 3.

see before

c.1. Num. 31.

officers doth consist in these things.

1 They are to receive of the high Constables of the hundreds quarterly the summes of money rated and taxed by the Justices of Peace upon every Parish for the reliefe of sick, hurt, and maimed Souldiers and Mariners. And if in case there be any defaults by the petty Constables, or high Constables in the levying of the summes, or in the payment of them over, so as thereby they make any forfeiture; These officers (and as it seems without any warrant from the Justices of Peace) may levy the same forfeitures by sale of the offenders goods, rendring to him the overplus.

2 Every Souldier, or Mariner, impotent, sick and disabled by the Kings service, having a Certificate to any of these officers, under the hand and scale of the Generall of the Campe, or

The Treasurer

Governour of the Town where he served, or of the Captaine of the Band under whom he served, or his Lievetenant, or in the absence of the said Generall or Governour, from his Marshall, or Deputy, or from any Admirall, or in his absence, from any other Generall of his Majesties ships at the Seas, wherein the said Souldiers or Mariners did serve, setting down the particulars of their hurts and services. The Certificate being also allowed by the generall Muster-Master for the time, being in the Realme, or Receiver Generall of the Muster Rols, the Treasurer and Controller of his Majesties Navie; This Souldier or Mariner may repaire to any one of these officers of that County out of which he was prest, or if he were not prest, to this officer of that County where he was borne or last inhabited by the space of three years at his election, and if
he

he be not able to goe thither, he may repaire to any one of these officers of the County where he doth land; And if any such Souldier or Mariner shall thus make to any one of these officers, it is the duty of this officer to give such a portion of reliefe to him for his present necessity as he shall think fit, having respect to his need, and the commendation of his service, and this to sustaine him untill the next quarter Sessions: And then the Justices of Peace by a kinde of Instrument may grant him a pension to be paid by this officer so long as the Statute doth continue, if the party so long live, and it be not duly revoked. And this must be alwaies paid by the succeeding Treasurers quarterly. But the same present summe so given, or yearly pension so granted, must not exceed ten pound in grosse, or *per annum* to a common Souldier, nor the summe of fiftene

N 4 pound

The Treasurer

pound to any that hath born office under the degree of a Lieutenants, nor the summe of twenty pound to any that hath been a Lieutenants. And these pensions the Justices at their quarter Sessions may upon causes alter at their pleasure. And these Mariners and Souldiers when they land in the way of their travaile, before they can get the Confirmation of their Certificate, must have competent allowance from the Treasurer of every County as they passe from the place of their landing.

3 They are to keep a book and therein to Register all the Certificates they doe receive and allow, and all their receipts, and disbursements. And if any of them do refuse any Certificate, he must set down the reasons of his refusall under it, or on the back of it.

4 They are at the end of their year to give up a just account to the

the succeeding Treasurers of all their receipts and disbursements, within the time of their office, and then also if they have any money in their hands, they are to deliver up the same to the succeeding Treasurers; And this they must doe within ten dayes after Easter Sessions. And if any such officer so chosen, shall refuse to execute his office, he may be fined for it by the Justices of the Peace. And if any such officer shall wilfully refuse to give reliefe to a Souldier or Mariner as aforesaid, the Justices of the Peace may fine him for the same, according to their discretion. And if any such officer, his Executors or Administrators, shall not give up his account within the time aforesaid, or shall be otherwise negligent in the execution of his office, the Justices of the Peace at the Sessions, may asseesse such fine upon him, his Executors or Administrators, as they think

thinke fit so it be not under five pounds. And all the Fines and Forfeitures happening for the breach of this Statute must be imployed by these officers to the uses aforesaid. And if any of the County stock shall be left in their hands, it must be disposed to the use of the poore in such sort as the Justices of Peace shall appoint.

CHAP. III.

*Of the Treasurers of the County
stock for reliefe of the Prisoners
in the Kings bench and
Marshalsey, &c.
and their
Office.*

Num. I.
What they
are and
how they
are chosen.

THE Treasurers of the County stock for the reliefe of prisoners in the Kings bench, and Marshalsey, and for the reliefe

Stat. 43. Eliz.
cap. 2

reliefe of Hospitals and Almes-houses within the same County, are certaine officers yearly appointed by the Justices of Peace, to have the charge of the receipt and disbursement of the money, taxed and levied upon the whole County, yearly for the reliefe of the Prisoners in the Kings bench & Marshalsey and for the reliefe of Hospitalls, and Almes houses, within the same County. For the Justices of the Peace are yearly at their quarterSessions about Easter to choose and appoint two persons of the County officers for this purpose. And the men so appointed [by the words of the Statute] must be such men as at the taxe of the Subsidie last before were taxed at five pound lands, or ten pound goods at the least, or neerer of that value. And these are to continue in their office but one yeare, and then others are to be chosen.

The office & duty of these officers

ficers doth consist in these things.

Num. 2.

1 They are to receive of the
Their Of- high Constables of the hundreds
fice or Du- quarterly the summes of money
ty. rated and taxed by the Justices of

the Peace upon every parish for
the reliefe of the poore prisoners
in the Kings bench and Mar-
shalsey, and for the reliefe
of the poore within the Ho-
spitals and Almes houses, with-
in the County. And if in
case there be any default by the
petty Constables, or high Con-
stables, or by the Churchwardens
in the rating, levying or payment
of these summes, so as thereby
they make any forfeiture; these
officers (and as it seems without
any warrant from the Justices of
Peace) are to levy the same by
sale of the offenders goods, ren-
ding to the party offending the
overplus, if there be any.

2 This money so by them re-
ceived, they must pay over (and
as it seems in convenient time af-
ter

Stat. 43 Eliz.
cap. 2. 7 Jac.
cap. 4.
See before c.
1. Jumb. 32.

ter the receipt hereof) to the Lord Chiefe Justice of England, and Knight Marshall for the time being, equally to be divided to the uses aforesaid, taking their acquittance for the same, or in default of the said Chiefe Justice, to the next ancientest Justice of the Kings bench.

3 They are to pay yeerly by a quarterly payment such a summe of money as shall be set down by the Justices of Peace, at their quarter Sessions unto the Masters and Governours of the houses of Correction : The which if they doe refuse or neglect to doe, the same Masters or Governours (without any other authority) may levy the same of the goods of the same Treasurers by sale of their goods rendring to them the overplus.

4 The Surplusage of the money by them received, they must distribute and bestow for the reliefe of the poore Hospitals of the same

same County, and for the reliefe of those that shall sustaine losses by Fire, Water, the Sea, or other casualties, according to the discretion of the Justices of the Peace of the County.

Account.

5 They are at the end of their year at Easter Sessions to give up an account to the succeeding Treasurers of all their receipts and disbursements in the time of their office : And then also if they have any money in they hands, they are to deliver up the same to the succeeding treasures. And if any Treasurer so elected, as before shall wilfully refuse to take upon him the same office of Treasurership, or to distribute and give reliefe ; or to account according to that order the Justices shall set down, the Justices may fine him for the same at their Sessions according to their discretion , so it be not under three pound : And all the Fines and Forfeitures for the breach of
any

any branch of the Statute of 43 Eliz. cap. 2. must be employed to the uses last aforesaid as the Justices shall appoint. See more in cap. 7. afterwards.

CHAP. IV.

*Of the Collector of the money for
the reliefe of the prisoners
in the common
Gaol, and
his Office.*

Stat. 14. Eliz.
cap. 9.

THE Collector of the money for the reliefe of the prisoners in the common Gaole, is an officer appointed by the Justices of Peace to have the charge of the receipt and disbursement of the money taxed and levied upon the whole County, for the reliefe of the prisoners in the common Gaole. For the Justices of Peace at their quarter Sessions, are to choose and appoint some sufficient person living neere to the
com-
Num. 1.
What he is
and how
he is cho-
sen.

common Gaole of the County as a Collector to receive and distribute the money assessed by them upon the County, for the reliefe of the prisoners in the common Gaole. And this officer may be in his office for longer time then one year.

Num. 2. The office and duty of this officer doth consist onely in these things. Stat. 14 Eliz. cap. 5. See before c. 1. Numb. 51.
His office, and duty.

1 That he be ready at every quarter Sessions to receive from the high Constables of the Hundreds the moneys rated by the Justices of Peace, on every parish, for the reliefe of the prisoners in the common Gaole of the County.

2 That he doe weekly pay and distribute the same to the same prisoners in such sort as the Justices of Peace shall appoint. And if he offend in either of these things, he shall forfeit for the same offence five pounds.

CHAP. V.

Of the Supravisors of the highwaies, and their Office.

Num. I.

stat. 2. & 3. P.
& M. cap. 8.

THE Supravisors, or Survivors of the highwaies, are officers yearly chosen by the constables, Churchwardens, and others of the Parish, to looke to the amendment of the highwaies, within the Parish: for the Constables and Churchwardens of every Parish, must yearly upon the Tewesday, or Wednesday in the Easter week, call together some of the Parshioners; and then choose two honest persons of the Parish, to be orderers of the workes, for the amendment of the highwaies, leading to Market Towns: The which persons so chosen shall have power to order the persons and carriages appointed for the worke according to their discretion. And if either of

What they
are, and
how they
are chosen.

Constables
Church-
wardens,

O

the

the said persons so chosen and appointed shall refuse to take on him, and execute the said office, he shall forfeit twenty shillings.

Num. 2.

Their Office and Duty.

For the discovery of the duty, of these officers, and the Law in this point, these things are to be known.

Stat. 2. & 3. P.
& M. cap. 8.
18 Eliz. c. 9.
5 Eliz. c. 13.
Dale. Just. of
P. 53. Stat.
29. Eliz. c. 5.

1. That they have to doe with no wayes, but the Kings highwayes. And so hath it been resolved by the Judges in the Kings Bench. For the Statute is, Highwaies leading to Market Townes.

Constables
Church-
wardens.

2. The Constables and the Churchwardens of the Parish, are at the time of choosing of these officers, to name and appoint six dayes, to be before the nativity of Saint *John* the baptist then next following, set apart for the amending of the highwaies: And they are to give notice thereof the next Sunday after in publique in the Church:
And

And this being done; these officers, viz. the Surveiors of the highwayes, are to see that the same be observed, and that all the Parishioners doe their worke on the same daies in manner as followeth.

3. Every person having a plough land intillage, or in pasture in the same parish, or keeping there a plough, or a draught; shall finde, and send on every day to the place appointed one Wain; or Cart, provided after the fashion of the Countrey, with Oxen; &c. fit for the carriage, and with necessary tooles fit for the work; and with two able men; and then and there, these men must doe such worke with their plow, &c, as they shall be appointed to doe by the Surveyors aforesaid; by the space of eight houres on every of the said daies, under paine to forfeit for every default ten shillings. And every other housholder, cottager and laborer.

of the Parish (able to labor, and being no hired servant by the yeere) must by himselfe, or some other able man, be then and there ready to worke, and work every one of the said six dayes, by the space of eight houres, as they shall bee appointed by the said Surveiors, under paine to forfeit twelve pence, for every day they shall make default herein. In the explication of which branch these things are to be known.

Co. 4. 37. 9.
124. 85. H. 6.
39.

1 That a plough land is not of any certain content, but ordinarily so much as one plough may plough in one yeere ; which in some countries is more, in some lesse, according to the hea vines of the soyle.

2 That so many ploughs as men usually have, and use in the Summer about their own businesse, so many they are to bring with them to this work: so that (for example) if a man with one plough and five or six horses, shall plough
seven.

seaven, or eightscore acres of arable land, and shall usually goe in the Summer, with two Carts or Draughts; in this case it seems, he is to come with two Carts or Draughts to this Service. And hee that occupieth forty or fifty acres of land, and keepeth onely three Horses, and one Draught or Cart, he is to come with one Draught or Cart.

3. If a man keepe onely two Horses and a Cart, for his owne businesse; in this case it seems he is to come with his Cart and two Horses; provided with a man or men to manage them.

4 He that hath a plough land, & hath no plough, but doth suffer his land to lye fresh, yet is to find and send a plough to this work. *And so was it agreed by the Judges in the Kings Bench. Mic. 21. Jac.*

5 A plough land may containe House, Medow, Pasture, and Wood: and therefore if one have so much of this as will keepe a

O 3 plough

plough and yeeld tillage for it, if part of it were eared up; in this case it seemes he is bound to send his plough, or else to pay for the same the penalty appointed by the Statute, for his neglect.

6 He that keepeth a plough or Draught for carriage albeit he occupy litle or no land, or pasture in his own hands; yet such a one it seemes is bound by the Statute, to send his Plough to this service.

7 He that doth occupy a plough land lying in tillage or pasture in severall Parishes, shall be chargeable to the amending of the high-ways in the Parish where he dwelleth, as farre as any person, having a plough land in any one Parish is chargeable.

8 Every person keeping in his hands and possession severall or divers plough lands shall be charged to finde in each Towne or Parish, where the plough lands being in his occupation, doe lye,
one

one Cart, &c. furnished for the reparation of the Highwaies, in the severall Parishes where his land doth lye, as if he were a parishioner dwelling in the Parish where the plough land doth lie.

4 If a man be chargeable but as a Cottager, yet if he be in the subsidie, five pound in goods, or forty shillings in lands, so long as he stands at that rate, he is to send two able men to the work, every one of the six dayes.

5. If the Surveyors shall think any of the Ploughs, or Carts to be needlesse any of the dayes, they may spare them, and instead thereof require two able men; the which must come under paine to forfeit twelve pence a man, for every default.

6 These officers must see that the worke be done according to the direction of the Statutes: and every man is to see that he doth his part therein. But if the Surveyors themselves shall licence

any man to doe lesse then his work, this will excuse him.

7 The owners of the grounds adjoyning to the highwaies are to take care that all the Fences, Hedges, and Ditches next adjoyning on either side of the same, be from time to time dyked, skowred, repaired and kept low; and that all the Trees and Bushes therein be cut downe under pain to lose for every default ten shillings. And if any man hath any ditch in his own ground that doth serve to lead away the water out of the highway, and he doth not scoure and keep the same cleane, so as to convey away the water, he shall forfeit for every rod not so scoured, twelve pence. And if any man that hath a ditch lying by the highway side doth cast the same up into the highway, and then suffer the same to lye there by the space of six moneths to the annoyance of the highway, he shall forfeit for every load so cast up, 12 pence.

8 These

8 These officers may, if they see cause for the amendement of the highwaies, take and cary away so much of the rubbish and smallest broken stones already digged, of any mans quarry lying within the same Parish, without leave of the owner, as they shall thinke needfull : But they may not without license digge in any mans quarry for new stones, much lesse take away any mans stones already digged. And if there bee no such rubbish to be found in any such quarry, within the said Parish, then may they enter into any mans severall ground (within the Parish) lying neere the place where the wayes are decayed; and there, if they see hope of finding materials fit for reparation thereof, may digge a new quarry without any leave of the owner of the ground: or they may enter upon any mans ground, and gather the stones that lye dispersed there.

But

But they may not without leave digge for any new quarry in the house, garden, orchard, or meadow of any man; nor (albeit it be in other ground) digge more than one pit, & the same in breadth or length not above ten yards over at the most. And then also they must take care that the same bee within one moneth after filled up againe, at the charge of the Parish, under pain to forfeit five marks to the owner of the ground. And if there bee any spring, or water in the highway, that doth annoy the highway; they may turne the same out of the highway into any mans ditches, according to their discretion.

9 They must within one moneth after any default is made in any of the particulars aforesaid present the same to the next Justice of Peace under paine to forfeit forty shillings for every neglect. And this Presentment that
Justice

Justice of Peace must present to the next quarter Sessions under paine of five pound.

10 If any man offend against the Statute of 2. & 3. *Pb.* and *M. .i.* If the Constables and Churchwardens shall not make a due election of these officers, and set down, and give notice of the times and daies for the work, or if the Surveyors doe not look to, and order the worke, or the Parishioners doe not waite upon the worke as aforesaid; in all these cases the offender may bee punished by Fine or Amercement in the quarter Sessions, or Leet, according to the discretion of the Justices of the Peace, or the Steward. And these Fines and Amercements are to be levied and imployed by the high-Constable in such sort as is set forth in *High Constable.*
Chap. 1. Numb. 58. And if any man offend against the Statute of 5. *Eliz. .i.* If these officers after they have digged in any mans inclosed

closed ground shall not fill the Pit againe, or if they shall not present the defaults to the next Justice of Peace as aforesaid, or if any of the Highwaies shall be unrepaired, or the owners of grounds shall not cut up their bushes and scoure their ditches adjoyning to the Highway; in these cases the offender may be punished by Fine at the quarter Sessions, according to the discretion of the Justices of the Peace. And these Fines are to be levied and imployed, as Fines and Amercements, levied upon the transgressors of the former Statute. And if any man offend against the Statute of 18. *Eliz. cap. 9. i.* If any man cast soile into the Highway and doe not remove it within the time aforesaid, or doe not scoure their ditches, &c. and cut downe their bushes in the Highwayes; the forfeitures of these men (being set down in certaine by the same Statute) may be

be levied by these officers immediately, by distresse and sale of the offenders goods, upon a warrant sent from the Justices of Assise, Justice of the Peace, or Steward of a Leet, before whom the same persons shall be convicted. And if they be negligent, and doe it not within a year, then the Constables or Churchwardens of the place, may levy the same as money is used to be levied upon an Amercement in a Leet.

Constables
Church-
wardens.

see before
cap. I. num.
27.

II If all this labor appointed by the Statutes to bee bestowed on the Highwayes, be not sufficient for the amendment thereof, the parish must supply it: for the parishioners of every parish are to looke to their Highwaies that they be well repaired and kept at their perill. For an Information, or Indictment may be (by the very common Law) preferred for the King against the Inhabitants of a parish, for not repairing of their Highwayes, and there-

thereupon they may bee fined to the King : And in this case the Fine shall not goe to the use of the Highwaies, as the forfeitures and penalties for the breaches of the Statute shall doe.

See more for the amending of the Highwayes in *Sussex, Surrey, and Kent*, *Stat. 39. Eliz. cap. 19. 27. Eliz. cap. 19.*

CHAP. VI.

*Of the Overseers of the Poore,
and their Office.*

Num. i.

THE Overseers of the poore are certaine officers appointed yearly to be joyned and assistant to the Churchwardens of the parish, in the oversight and ordering of the poore of the parish. And they are to be chosen and made by two or more of the Justices of the Peace of the county (whereof the one of them must be of the Quorum) dwelling in
or

What they
are, and
how they
are chosen.

*Stat. 43. Eliz.
cap. 2, 3.
cap. 3. 1 Jac.
cap. 25.*

or neer the parish or division, &c. who are yearly under hands and seales at Easter, or within a month after to appoint foure, three, or two substantiall householders (according to the greatnesse of the parish) to be joyned with the Churchwardens of the parish: And all these together are to look to the poore of the parish.

Num. I.
Stat. 43. Eliz.
cap. 2, 3. Car.
1 Jac. cap. 25.
Dalt. Just. of
P. 71, 72, 73,
74.

For the discovery of the duty of these officers, and the law in this matter touching the poore, these things are to be known:

Their Office and Duty.

Churchwardens.

1 That the Churchwardens of the place have in this office an equall authority and charge with the Overseers of the poore; and therefore howsoever it bee the common course in most places, with the Churchwardens to neglect it altogether, and not to meddle at all with it, yet this is a common neglect punishable upon the Churchwardens, and fit to be redressed. But if there be but one Churchwarden within the pa-

parish, this doth suffice, and the Overseers and he together may execute the Office well enough.

It is the duty of these Churchwardens and Overseers together, or of the more part of them: (for the greater part of them without the rest, may doe and execute any worke of their Office) to take order with the consent of two or more such Justices of the Peace, as aforesaid, for the setting of their Poore to worke, placing them out Apprentices, and relieving them that are impotent, and not able to live by their labour. For the further explication of all which, these particulars are to be observed.

In setting
up a trade.

The Churchwardens and Overseers, with the consent of two or more Justices of the Peace (whereof one to be of the *Quorum*) within their respective limits, wherein shall be more Justices than one, and where no more shall be but one with the assent
of

of that one Justice, may set up, use and occupy any mystery, trade, or occupation, only for the setting on worke, and better reliefe of the poore of the parish, wherein they are Churchwardens and Overseers, any former Statute to the contrary notwithstanding.

2. They are to set to worke the children of such whose parents shall not by them, or the greater part of them, be thought able to keep and maintaine their children, and such persons married and unmarried, as having no meanes to maintaine themselves, use no ordinary and daily trade of life to get their living by: And if any person so appointed by them to worke, shall refuse so to doe, he may be sent by any Justice of Peace to the common Gaole, or house of Correction.

3. They, or the more part of them, with the consent of the Justices, as aforesaid, may, and

In setting to worke the poore.

In making and binding of Apprentices.

ought to binde forth, and place to be Apprentices, the children of all such whose parents shall be by them, or the greater part of them, thought to be unable to keepe and maintaine their children. And they unto whom they are so bound may, and must receive them, and keep them as Apprentices. In which particular these things must be marked.

1 They may binde them to be Weavers, Masons, or any such like trade, or they may bind them to husbandrie or housewivery.

It is said these things have been of late resolved by the Judges.

2 The Man-childe may be bound untill he be of the age of 24 yeeres; and the Woman-childe, untill she come to the age of 21 yeeres, or be married.

3 They with the Justices of Peace, may compell any man they thinke fit, to take such a poore childe of the same Parish to be his Apprentice, and that without any money at all: Howbeit

beit in this case it is meete some respect should be had, for if the childe be young, and the partie to whom they would place him not very able, it is fit that some money be given, as the Overseers and the partie can agree; and if they cannot agree, as the next Justices of Peace, or as the Justices of peace at the sessions shal set down:

4. Albeit a man be not a tradesman, but be a Knight, Gentleman, clergie man, or yeoman; and albeit he doe not keep house, but be a sojourner, if he use husbandrie, clothing, grasing, or the like, or howsoever his case be, if by his calling and profession, he must entertaine and use servants of like qualitie; he may be compelled to take such an Apprentice.

5 If a wealthie man live so privately, that he keep few or no servants, and leadeth such a life, that he hath no need of such a servant, yet he may be compelled to take

such an Apprentice himselfe, or to give money towards the placing of him with some other.

6 If there be not masters enough within the same parish to entertaine the poore children there; the Justices of the Peace may compell them of other Parishes within the same hundred to take them: And if there be not enough within the Hundred, the Justices of the Peace at the Sessions may compell them of any Parishes within the Countie to take them.

7 The Indentures made by the Justices, Churchwardens, and Overseers in this case, and the binding by them are as effectuell to all purposes, as if the children were of full age, and by Indentures of Covenant did binde themselves.

8 If any man refuse to accept of an Apprentice, being thus placed to him, he is by the Justices of the Peace to be bound

to

to appeare at the next Sessions;
and if he refuse so to doe, he is to
be sent to the Gaole till he do so.
And if he be bound to appeare at
the Sessions, and doe so, and then
refuse (without a sufficient ex-
cuse to be allowed by the Iustices
of Peace) then hee is by the Ju-
stices of Peate to be bound to the
good behaviour; or if he refuse
so to doe; to be imprisoned till
he doe so, and withall he may
be indicted and fined for this con-
tempt.

9 If the Parents of such
poore children refuse to suffer
their children to be bound Ap-
prentices, or intice them away
being bound; the Parents them-
selves may be sent to the house of
correction.

4 It must be noted, that of the
poore there are three sorts.

The seve-
rall sorts of
Poore.

1 Such as are poore by impo-
tency, as,

1 The aged, decrepit persons
that are past labor.

P 3

2 The

Dalt Just. of
P. 76.

2 The Infant, Fatherlesse and Motherlesse not able to work.

3 The person naturally disabled in wit, or member, as the Ideot, Lunatike, Blinde, Lame, &c.

4 The person visited with sicknesse, who thereby for the time is impotent: All these being impotent, and not able to work, are to be found and provided for by the Overseers of necessary reliefe.

In relieving the poore.

2 Such as are so by casualty, as,

1 He that is casually maimed in his calling, as the Souldier, Labourer, &c.

2 The person that is decayed by fire, water, robbery, suretiship, &c.

3 The poore man overcharged with Children: All these and such like, having no sufficient means to maintaine themselves, are to be holden and set on worke by the Overseers, and

and being not able to live by their work, are further in charity to be relieved in some reasonable proportion according to their wants.

3 The chrestleſſe poore, as

1 The riotous and prodigall person, that spendeth at play, drinking, &c.

2 The dissolute person, as strumpet, pilferer, &c.

3 The slothfull person, that doth refuse to work, or doth wilfully spoyle or imbezle his work.

4 The vagabond that will abide in no service or place: And for all these latter sort, the house of Correction, or common Gaole is the fittest place. But if they have able bodyes, they are to be compelled to labour, for the rule of Christ is, That such as will not work must not eate, 2 Theſſ. 3. 10. And yet if these prove unable to worke, then it seems they must have reliefe from the Parish as well as others.

5 None of all these poore are to be relieved by the Parish at the common charge except they be such poore as be unable to work, for as for others that are able, they are to set themselves to work if they can get it, and if they cannot, these officers must set them to worke: For it is generally forbidden to all to beg, for none may be suffered to take reliefe at any mans doore within the Parish, but by the order of the Overseers: Neither may any man be suffered to beg in the Highwaies, albeit it be in the Parish where he dwelleth.

See cap. 1.
Num. 19.

6 If the parents bee able to worke, and may have worke, they are to finde their Children by their owne labour, and not to put the parish to the charge thereof. But if they be overburdened with Children it will be good for the Overseers to place some of them apprentices, as aforesaid,

7 The

7 The Father, and Grandfather, and Mother, and Grandmother, and the Children and Grandchildren of every poore impotent person or other person not able to worke (being of sufficient ability) shall relieve such poore persons in such manner as the Justices of the Peace (of the County where such sufficient person dwelleth) at their generall Sessions shall asseſſe under paine to forfeit twenty ſhillings, for every moneth he ſhall faile therein. And yet if a woman have a Baſtard, and then take a Husband, he is not bound to maintaine this childe: But if he have a ſufficient eſtate by his wife, then perhaps hee may be compelled to maintaine it.

8 Thoſe young Children whoſe Parents are dead, are to be ſet on worke, relieved or maintained at the charge of the place where they are dwelling at the time of the death of their Parents, and

So held by
the whole
Court at the
ſeſſions, for
County of
Wiltſ. 10.
Car.

and are not to be sent to their place of birth, &c. for if the Parents be not Rogues, the Children cannot be Rogues untill they wander abroad and beg.

Rogues.

9 If any (not being Rogues) shall travaile with their Children through a town, and the Father or Mother dye, or run away; in this case that town is not bound to keep the Children, nor to send them away except they become wandring beggers: And therefore these officers are not to take care for these persons.

See in cap. 1.
Num. 19.

10 If there bee any within their parish that have nothing to live by, and they have able bodies to worke, and they refuse to worke for the wages taxed (or commonly given in those parts) these officers are not to take care to relieve these, for such persons are to be sent to the house of correction, and not to their place of birth or last dwelling by the space of a yeare; And if they be
such

such as have meanes to live by,
they are not to meddle with
them at all albeit they doe not
worke.

II No man is to be put out of
the town where he dwelleth, nor
to be sent to his place of birth or
last habitation but a vagrant
Rogue. And therefore they
that have houses, when their e-
states are ended, are themselves (if
they be able) to get new houses
and to be settled there to worke;
And if they be not able to worke,
they must be relieved there. And
servants when their service is en-
ded, are not to be sent back where
they last served or dwelt, or to
their place of birth, or last habi-
tation; but (being able) they
are to provide themselves there
to be set on worke, and (being
impotent) there to be relieved:
But the Parish in neither of
these cases, or any other,
(where the parties are not
impotent) is bound to provide
houses

What pa-
rish is to be
charged.

houses for them. And yet if any of these persons shall be taken begging abroad out of the same parish; in this case they may be sent as vagabonds from the place where they shall be taken, wandering or begging to their place of birth. And if a Servant live in the service of B. in the Parish of Sale, and after his term doth expire; albeit in this case (as is said before) he may not be thrust out of this Parish, yet if he of his own accord (and not by way of Roguing) go into another Parish, he may not be sent back to the Parish of Sale, for none but a Rogue may be sent back to any place from whence he came.

Pasch. 7. Car.
B.R. per
Chiefe Just.

12 If a woman unmarried be hired from week to week, or from half year to half year, or by the year, in one Parish, and there is begotten with childe, and then goeth into another Parish where she is settled in service, or other-

It is said that these points have been of late resolved by the Judges.

otherwise for the space of two or three moneths, and then it is discovered she is with child, and the case is such that it is likely to be a charge to the Parish; in this case she is to be settled, and the charge is to light upon the parish where she was last settled, and not on the parish where she was begot with childe.

13 If such a Servant be begot with childe, and then goeth out of her masters service before, or after it is discovered she is with childe, and the reputed father is run away, or not of ability to free the parish; in this case the master with whom she dwelt, shall not be forced to provide for her untill she be delivered or afterwards; but the charge (if any be) must light upon the parish.

14 If a woman be delivered of a Bastard childe in one parish, and afterwards goeth into another parish with the same childe,
or

or becomes a vagrant, and so is sent to the place of her birth, the childe being under the age of 7 years; in this case (if it be a childe that will be chargeable to some parish, and there is nothing to be had of the Mother, and reputed Father) the childe must be placed with the Mother so long as it is within the quality and condition of a nurse childe, and then it must be provided for by that place where it was borne.

15. If a woman that hath a house in one parish taken by her husband for a year, before the end of the term be put out of it; and afterwards he take part of a house in another parish, from whence they are also put out within two or three dayes, and then being not able to get any dwelling, they come and lye in a Barn in another Parish, where the husband doth fall sick, and the wife is delivered of another childe

childe; in this case the woman and childe both must be returned to the place where they were first settled, and unlawfully removed, for none may be so compelled to turn vagrants.

16 If an Apprentice be placed in a parish, and his Master live out the time, or dye within the time, and leave no Executor behinde him fit to keep an Apprentice, nor able to place him, or howsoever it be, if the Apprentice be become impotent, the parish wherein he doth serve must beare the charge of it. And so it is albeit he be placed there by the Churchwardens of another parish.

17 The Law doth unsettle none that are lawfully settled, nor doth it permit it to be done by practice or compulsion, but every one that is settled, as a native Householder, Sojourner, an Apprentice, or a Servant for a month at the least without a just com-

complaint made to remove him or her shall be accounted in Law to be settled; And therefore if any such prove impotent and unable to live, they must be maintained by that place. But a nurse childe, Scholar at Schools or University, are no more to be esteemed as persons settled, then travellers in an Inne. And therefore if any charge be likely to come by these, they are to be sent to their parents or to the place where they last settled,

18 Such as will remove or put any out of their parish, that be not to be put out, doe offend against the Statute, and may be fined: And if any have been so sent, they may be sent back againe.

3 The next maine thing In making wherein the duty of these officers of Rates. doth lie is in the making of rates. For to this purpose it is provided, That the Churchwardens and Overseers of the poore, or the

the greater part of them with the assent of two Justices of the Peace, as aforesaid, may raise weekly or otherwise (by Taxation of every inhabitant, Parson, Vicar, and other, and of every occupier of lands, Houses, tithes impropriate, or Propriation of Tithes, Coalemines, or saleable Underwoods in the said Parish in such competent summe and summes of mony, as they shall thinke fit) a convenient stock of Flax, Hemp, wooll, Thread, Iron, and other necessary stufte to set the poore on worke: And also competent summes of money for and towards the necessary reliefe of the lame, impotent, old, blinde, and such other among them being poore, and not able to worke: And also for the putting out of the Children of poore persons to be Apprentices: And also for the setting up of houses for the poore; to be gathered out of the same parish according

Q

to

to the ability of the same Parish :
 And they may doe and execute all
 other things, as well for the disposing
 of the said stock, or otherwise
 concerning the premisses
 as to them shall seem convenient.
 For the better understanding of
 which branch of this Statute of
 43 Eliz. and discovery of the law
 concerning rates in generall,
 these things must be known.

1 That when Officers are to
 make any rates, they shall doe
 well first of all to give publique
 notice in the Church of the time
 and place, when and where they
 intend to make the same (for this
 in the case of Church-rates, is ne-
 cessary) and then if the Parishio-
 ners will meet, they may if; not,
 the Officers, and those that doe
 meet, may make the rate.

Dalt. Just. of
 Peace 110.
 Co. 5. 67. 104.
 139. 9. 104.
 5. 67. See ca.
 9. Num. 3.
 part. 4.

2 The rates must not be ex-
 tended beyond the Parish, neither
 may the Overseers rate other Pa-
 rishes towards the rates of the
 poore of their Parish. For in
 Hilary

Hilary Term 10. Car. inter Nichols & Walker, was this case in the King Bench. Totridge was time out of mind, within the parish & parcell of the parish of Hatfeild in the county of Hertford, & the Parson of Hatfeild had time out of mind, had all the tithes out of Totridge, as within the Parish of Hatfeild, and had alwaies placed Curates there to say Divine Service in the Chappell of Totridge, and that for 60. yeeres before Totridge was reputed a Parish of it selfe, and during that time had parochiall officers, and that of late, the Overseers of the poor for the parish of Hatfeild had taxed the Plaintiffe *Nichols*, (being an inhabitant of Totridge.) to pay to the poore of Hatfeild, which tax was confirmed by the Justices, and the mony being unpaid, the Defendant *Walker*, being an Overseer by warrant from the Justices of Peace distrained the Plaintifes goods, and for this ta-

king of his goods, *Nichols* brought an Action against *Walker*: And in this case, it was adjudged for the Plaintiffe, and resolved by the Judges, that *Totridge* being but a parish in reputation only should not be lyable to the Taxation made by the Overseers of the poore of *Hatfield*.

3 Every man must be rated for his land, to all rates according to the quality and yeerly value, and not according to the quantitie therof; And so was the opinion of the Lord Lord Chief Justice, and Baron *Denham*, at an Assizes at *Sarum*, 8. Car.

4 He that doth occupie lands in his owne hands lying in severall parishes, must be charged in every parish for his land there only proportionably, and no more.

5 The Fermor is to be rated for the lands he hath in Lease, not the Lessor.

6 The

6 The Lord, or Lessor shall not be charged for the Rent issuing out of the land, because the Tenant is chargeable for the whole land.

7 If there be some lands within the Parish that be Ancient Demesne, and some that be Gnyldable, it seems they must be all rated: and so also of Copihold land.

8 Impropriations (by the very letter of the Statute) are to be rated to the poore, as well as other lands. And in the rating of them, it seems reasonable, that where they have the Tenth of the whole parish, they beare the Tenth of the charge to the Rate of the Poore. And so hath it been of late resolved by the Judges.

9 Saleable underwoods (by the expresse letter of the Statute) are ratable; And by these are intended generally all Woods for fire-wood, albeit they be not cut

in 30. or 40. yeeres (as the Beech wood of many countries is used to be cut;) for it seems, there is no wood to be exempted from this Rate, but Timber-wood only : Also Cole-mines are chargeable to this Rate. And for these things, they must be proportioned to a yeerely benefit; so that if a man have 100. acres of wood within the parish, it must be considered what wood he may sell, and what benefit he may make thereof yeerly to the worlds end, and according to the same the Rate must be made : And for Cole-mines, it must be considered what benefit a man doth make by them, and according to the same he must be rated.

10 Parsons, Vicars, and such like persons (as Inhabitants) within the intent of this Statute are to be rated towards the reliefe of the poore, as well as other men. And so hath it been resolved of late by the Judges.

II Any

11 Any man that dwelleth within the parish, albeit he have no land within the parish, may be rated towards the reliefe of the Poore of the parish. And so hath it beene also resolved by the Judges.

12 In some cases a man may be taxed for his goods, as well as for his lands. And in case of a Rate for the poore, men may be taxed for their visible estate of goods, viz. their oxen, kine, sheepe, &c. as well as for their lands; and not onely for those goods that are within the same parish where a man doth dwell, but also for those goods which he hath in any other place: for a man shall not be rated for his goods in any place, but in the place where he doth dwell. Nay it is held in this case of Rating for the poore, some respect may be had to mens invisible estate of money, for the case may be so, that the Raters may know a man

Q. 4

with-

within the Parish, that hath no other estate, and yet perhaps hath an Annuitie of 100^l. by the yeere, or hath hundreds, or thousands of pounds of money owing to him; and in such a cleare and certaine case they may no doubt rate him according to that value.

13 In some speciall case, a man may be rated beyond his ability: For if a parishioner for his own gaine, or otherwise, shall bring into the parish without the consent thereof, a stranger, who is, or is apparently like to be burthensome to the parish; in this case the parishioners (because they have no other remedy against him) may rate him not only according to his ability of lands and goods, but according to the damage he bringeth, or is like to bring to the parish by his folly: For if any person shall find himselfe grieved with any such Rate to the poore, or other such like act done by the Overseers of the

And so hath
it been resol-
ved of late
by the
Judges.

the poore, or the Justices of the Peace, he hath no other remedie, but to complaine to the Justices of the Peace, at the Quarter Sessions; where (the case appearing to bee as aforesaid) he will have little reliefe.

14 In all Taxes for the County Stock, Gaole, House of Correction, and in other particular cases, where the Statute doth give no direction, it is best to follow the Rule of the Taxation for the poore. And so it hath beene directed by the Judges.

15 If any man refuse to pay his Rates for the poore, the present, or subsequent Overseers of the poore, shall have a warrant from the Justices of the Peace to levie the same of the parties goods, and if he have no goods, then to carry him to Gaole, there to abide untill he doe pay it. And thereupon they may, and must sell

the money, if there be any : and if he have no goods, then to carry him to Gaole, there to abide untill he doe pay it.

Erecting
houses for
the poore.

4 These Officers, and the Churchwardens may by order of the Sessions, and by and with the leave and agreement of the Lord of the Manor first had by writing under his hand and seale, erect and build any fit house for the dwelling of the impotent poore of the parish in any waste or common part of the same Manor :

Inmates.

And therein they may place more families then one as Inmates without any danger. But then this house must not be afterwards converted unto any other use ; for so it may become a cottage afterwards.

Cottage.

5 These Officers, and the Churchwardens are to meet once every moneth at the least in the Church on Sunday after Evening Prayer (except they be let by sicknesse or other cause to be allow-

lowed a good excuse by two Justices of the Peace) to consider of all these things.

6 They are alwayes within foure dayes after the end of their yeare, and after other Overseers named and allowed by the Justices to give up to any two such Justices of the Peace, as aforesaid, a true and perfect Account.

1 Of all summes of money by Account. them received, or rated and not received.

2 Of all such stock of ware or stuffe, as they, or any of their poore have in their hands.

3 What Apprentices they have put out.

4 What poore they have set on worke, or relieved.

5 Whether they have suffered any of their poore to wander and begge out of their Towne, or in the High-ways, or in their Towne, without their direction.

6 Whether they have not moneth-

monethly to consider of these things.

7 Whether they have assessed the inhabitants and occupiers of lands, &c. in their parish. *viz.* all such as are of abilitie, and with indifferency.

8 Whether they have endeavored to levie and gather such Assessments.

9 Whether they have been any way negligent in their offices in executing the Justices warrants, about any thing touching their office.

7 If any parish shall extend into two Counties, or any part thereof shall lie in any Citie or corporate Towne, where they have Justices; in these cases the Justices of each Countie, &c. shall intermeddle within their owne limits. And yet the Overseers shall without dividing themselves execute their Office in all places within the Parish, but shall give up severall accounts, &c.

8 If

8 If the justices doe perceive that the Inhabitants of the Parish are not able to relieve their poor, then any two of them (whereof one to be of the *Quorum*) may tax any other parish within the same Hundred to helpe them; or if the Hundred be not able, the justices of Peace at the Sessions may tax any other parish within the the County to helpe them.

9 The Churchwardens and Overseers of the Poore are to accept, and looke to any Rogue that shall be brought, and offered unto them to be conveyed unto any place. And these Officers also as well as the Constables (as it seems) are to see he be conveyed accordingly.

See before
cap. I. num.
6. 19.

10 If any Father, Grandfather, &c. of any poore person taxed by the justices for the reliefe of that poore person, shall not pay the mony rated by the Justices, he shall forfeit twenty shilling, for every month he shall faile

faile thereof. And if any Churchwarden or Overseer of the poor, to whom any Rogue shall be brought, shall refuse to take him, and look to him, he shall forfeit five pound. And if any Churchwarden or Overseer, shall refuse to give up his account as aforesaid, and to pay over the arrerages due (if any be) upon the same account unto his Successor, he may be committed to the Gaole by two Justices of the Peace, untill he doe account and pay over the same money. And if any of these officers shall offend in any other of the particulars aforesaid, he shall forfeit for every default twenty shillings.

II All these forfeitures are goe to the use of the poore of the parish, and may be levied as followeth : viz. The money forfeited by the Father, Grandfather, &c. of any poore person taxed by the Justices towards the maintenance of such poore

poore person , that will not pay that rate, may be levied of the offenders goods upon a Warrant from two or more Justices of Peace, as aforesaid by sale of the same goods, rendring to the party the overplus of the money: And if there be no distresse to be had, the Justices of Peace may commit the offender to Prison, there to remain without Bayle untill the forfeiture be paid: The money forfeited by the Churchwardens or Overseers for not receiving or taking care to convey a rogue, &c. may be levied upon the offenders goods , upon a Warrant from two or more Justices of the Peace: The money forfeited by the Churchwardens and Overseers for offending in any of the particulars aforesaid may be levied by the subsequent Churchwardens and Overseers upon the offenders goods: also in the same manner by a Warrant from any two Justices of the Peace. And
if

if there be no such distresse to be found, the same Justices may commit the same offenders to gaol untill they doe pay it. And if any man shall in any wise disturbe the execution of the Statute of 39 *Eliz. cap. 4.* he shall forfeit five pound, and be bound to the good behaviour by any two Justices of the Peace.

12 These officers being required by the Warrant of any Justice of Peace to levy any forfeiture upon any person offending against the Statute of 21 *Jac. cap. 20.* against swearing, are to execute the same. See cap. 1. Num. 42,

13 These officers, the Church-wardens, the Parson, or Vicar, and the Constables of the place, or the most part of them (where any money is, or shall be given to be continually imployed for the binding out as Apprentices the poorest sorts of Children) shall within the same places have the nomination, and placing of such
Ap-

Constables
Church-
wardens.

Apprentices, and the guiding and employment of such monyes as have been heretofore so given, or which hereafter shall be so given, to and for the continuall binding forth of such, and so many apprentices, & in such sort as is already, or shall hereafter be so given and appointed, either by the last Will, or any writing [under the hand & seale of the givers of such monies. And if any of them wilfully forbear or refuse according to their duries to imploy such monies, by meanes whereof the said money shall not be imployed accordingly : then every of them so offending shall forfeit 3 pound, for every such offence. And the Master, Mistresse, or Dame of such Apprentices shall be bound with one or two sufficient sureties in double the summe they have received with such Apprentices to such persons as aforesaid, appointed to dispose the same monies to repay the money so received

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ceived at 7 years end, or within 3 moneths next after the same 7 years ended. And if the Apprentice, Master, &c. happen to dye within the said 7 years, then within one year next after such death. And these officers and the rest ought to put forth and employ such monies within 3 months at the furthest after the same shall come to their hands. And if there shall not be found fit persons to be bound out Apprentices in the Towns and Parishes, where such monyes are, or shall be given, to be employed as aforesaid, the poorest Children of any of the Parishes next adjoyning may (by the discretion of the said Parson, Vicar, &c.) be bound Apprentices, taking such Bonds, as are before mentioned. And choice must be alwayes made of the poorest sort of Children, and that no Apprentice be above 15 years old when he shall be first bound. And the said Parson, Vicar,

car, &c. are once every year in Easter week, or within a moneth after Easter day accountable before 4, 3, or 2, Justices of the Peace, dwelling in, or next to the said Towns or Parishes for all such monyes, as they have employed in binding of apprentices, and of all Bonds and Obligations taken for payment thereof, and of the money remaining in their hands: And are at such account, or within ten dayes after, to deliver to their Successors, or to such as then bee in their times or places, all the said Bonds and Obligations, and such monyes as remain in their hands not then imployed.

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CHAP.

CHAP. VII.

*Of the Governour of the house
of Correction, and his
Office.*

Num. I.

What he is
and how he
is chosen.

THE Governour or Master of the house of Correction is an Officer appointed by the Justices of Peace to have the oversight, and government of the house of Correction, and of persons committed to the same. For such houses are to be, and are provided and maintained with Mills, Turnes, Cards, and such like necessary implements in every County for the keeping, correcting, and setting to worke of Rogues, Vagabonds, sturdy beggers, and other idle and disorderly persons. And the Justices of the Peace, or the greater part of them at the quarter Sessions, are to choose and appoint one or more sufficient and honest persons

Stat. 39. Eliz.
cap. 4. y. Jac.
cap. 4.

sons to be Governors, or Masters of the said house : And to take sufficient security from the said Governours for the continuance and performance of the said service: And to set down what allowance they shall have yeerely for their paines, (which they may charge upon the County) and for the reliefe of such as shall happen to be weak and sick in their custody , and for the stock to set on work such persons, as shall be committed thither: And to set down other orders touching the same according to their discretion. And this money so allowed they shall have according to the appointment of the Justices of Peace, as aforesaid: to be paid quarterly before hand by the Treasurer of the County, for the reliefe of the Prisoners in the Kings bench and Marshalsey. And if the Treasurer refuse or neglect to pay it thus , the Master of the house of Correction

R 3

may

See before
cap. 3.

may levy the same or so much thereof as shall be unpaid upon the Treasurers account by distresse and sale of his goods, rendering to him the overplus of the money.

Num. 2. The Office and Duty of this Officer, is in these things.

His Office and Duty. 1 To looke well to the same Stat. 39. Eliz. cap. 4.

house, and the backside thereof, and all the implements and goods he doth finde there; he is also to look to all the persons he findeth there, or that shall be afterwards committed to him.

2 To receive such Rogues, Vagabonds, idle or disorderly persons, as by any of the Justices of Peace shall be sent thither.

3 To keep safely all such as are committed to him, and not to suffer them to wander about the Country, or to escape away without order of the Justices.

4 To see and take care that amongst the persons committed to his charge, if there be any sick,
or

or otherwise impotent, &c. that have need of reliefe; that he doe relieve them according to their necessity.

5 To see and take care, as for the rest that are able to work, that he doe from time to time, as they shall remain there, set them to work and labor: for during that time they must be in no sort chargeable to the Country for any allowance, either at their comming in, or going forth, or abode there, for they are to have such, and so much allowance only as they shall deserve by their own labor and work.

6 To punish them (as he seeth cause) with putting on Fetters, or Gives upon them, and by a moderate whipping of them.

7 And lastly, at every quarter Sessions to give an account of all such persons as have been committed to his custody. And if they shall offend in any of these particulars, or any other inci-

Treasurer.

dent to the duty of their office, the Justices of the Peace may impose such Fines and Penalties upon them for the same, as they shall think fit. And these Fines must be paid unto, and accounted for, by the Treasurer of the County for the Kings Bench and Marshalsey.

As touching the office of distributors of the Provision for the destruction of noysome fowle and vermine, spoken of in *Lam.* in his book of the *Duties of Constables*, fol. 66, 67. there is no such office at this day. For the Statute whereby this office was constituted, is now expired: And therefore also the law now touching all those matters is at an end: So that at this day there is nothing to be paid for the head of any vermine, Crow, Ringtaile, Kite, Fox, Gray, Otter, &c.

CHAP. VIII.

*Of the Church Ministers, and
their Office.*

Hitherto we have spoken on- Num. I.
ly of civill officers, and
their offices, and now we come
to speak of the Ecclesiasticall of-
ficers and their offices. And
because the duties of some of the
civill officers (whereof we have
spoken) are intermingled with
the duties of these Ecclesiasticall
officers, and for this cause wee
must of necessity speak something
of these officers, and their offices;
we shall (by way of addition) say
a little more, in hope that here-
by with a little more labor, we
may doe a great deal more good.
And yet so farre forth onely, or
chiefely shall we meddle with
this matter as the temporall laws
doe lead us unto, and leave the
other

other parts of their offices, that doe rest upon the Laws Ecclesiasticall, to them that are acquainted therewith, and have conu-
sance thereof; and doe sufficient-
ly call upon them for the execu-
tion thereof. And because the
latter laws (having need of the
helpe of many) have borrowed
some use in a few easie matters of
spirituall or Church Ministers
(being commonly the Parsons or
Vicars of the severall Parishes of
the Kingdome) chiefly for the
helpe and readinesse of their pen,
which in many Parishes, few or
none besides themselves can serve
withall; and we shall therefore
have necessary occasion to set
forth the duty of these officers in
these inferior things, we will be
bold (and it may be it will not
be altogether impertinent or un-
profitable) to ascend a little high-
er, and wade a little further in-
to the things that concern these
men and their office in generall,
and

and to give you a taste of three things herein.

1 How the men that are called to this office ought to be qualified and prepared; and how they are chosen.

2 What their worke or duty is being in this office.

3 What their Priviledges and rewards are. Not that I thinke these officers and their worke fit to be ranked with the meaner and more inferior sort of officers,

1 Tim. 3. 1.

1 Cor. 9. 13.

1 Tim. 4. 16.

and their work; for I am well aware, and desire all men may think so, that as the Ministry and service whereabout this officer is most of all conversant is a worthy work, and the greatest of all other, tending and serving to the immediate worship of the great God, and the Salvation of mens Soules; so is their calling and office, one of the most high & honorable of all others, as that which our blessed Savior, God over all, blessed for ever, graced by

Luke 4. 16,

17. &c.

his

his undertaking, entering into and ^{2 Cor. 5. 18,}
 serving in that wherein they
 are Embassadors for Christ to
 men, and that wherein they are
 laborers together with Christ in
 the building of the spiritual tem- ^{2 Cor. 3.}
 ple of Christ. These men come
 nearest to God of any other, and
 (as it were) waite about his per-
 son, and are of his Privy Cham-
 ber. They are styled Angels of
 the Churches, and starres in ^{Rev. 1.}
 Christs right hand. As there-
 fore (in respect of their calling)
 they are the men whom God
 hath honored, and worthy of
 double honor; so I wish that no ^{1 Tim. 5. 17.}
 man may despise them, seeing
 that to despise them, is to despise
 Christ that doth send them; And ^{Luke 10. 17.}
 that they may not be despised, I
 wish also they may walk worthy
 of their calling and honor, where-
 unto they are called; and that
 they do not by their unworthy ^{Ephes. 4. 1.}
 walking make God, the holy ^{1 Sam. 2. 12,}
 things they have to doe with, and ^{13, 14. Tit. 2.}
 them- ^{15.}

themselves to be despised: alwaies remembring the saying of the Father, *Magna Sublimitas magnam debet habere cautelam: Honor grandis grandiori debet solitudine circumvallari.*

Canon 32, in
the Ecclesia-
sticall Ca-
non made
1603.

The Church Minister is a public and sacred officer, ordained and appointed to serve God, and the Church, in administering the holy things of God and his Church: And of this office there are two degrees.

Num. 2.

What they
are, and
how they
are to be
qualified
and prepa-
red for this
office, and
how they
are chosen
thereunto,

I The office of a Deacon, whereby he is enabled to preach only, and not to administer the Sacraments also: and afterwards he is made compleat Minister. And it is forbidden by the Canon that any be made Minister and Deacon both in one day. In both these degrees they are to be chosen and admitted to this office and licensed to execute the same, by the Bishop of their own or some other Diocese, or by one of the Universities. And no

man

man without such election, admittance, and license may take upon him to execute any part of this office. And after he is made Minister, it seems he may not be suffered within some Diocesses to Preach or Expound, without another speciall license so to doe. Can. 36. 49. Stat. 13. Eliz. cap. 12. Can. 34. 35.

To this office are none to be chosen and admitted, but such as are of sound Religion, upright conversation, and sufficient learning. And to the end they may be such, and that none others be chosen to this office, those that doe elect them, are to take care well to enquire into their learning and manners. And touching this part, these things are further to be known. 1 Tim. 5. 21. 22. Can. 34. 35.

I The Bishop may make Ministers but foure times a year, in the Ember weeks, upon the Sundayes, next after *Jejunia quatuor temporum*; and this must be in the Cathedrall Church, or in the Parish Church where the Bishop doth

doth reside, and at the time of Divine Service. And in the doing of this work the Bishop must be accompanied and assisted with three, foure, or more of the learned Divines (that are Masters of Arts) of the Cathedrall Church or some other places.

Stat. 13. Eliz
cap. 12.

2 No man may be called to this office, that is under the age of 24 years; nor then, unless he first bring to the Bishop of that Diocese, from men known to the Bishop, to be of sound Religion, a Testimoniall both of his honest life, and of his professing of the Doctrine expressed in the Articles of Religion, agreed upon in the year 1562. nor unless he be able to render, and answer to the Ordinary an account of his Faith in Latine, according to the said Articles, or have speciall gift and ability to be a Preacher: nor shall be admitted to the order of Deacon, or Ministry, unless he shall first subscribe to the Articles.

Articles. And by the Canon (which was made before this Statute) it is forbidden to call any man to this office, that is not of the Bishops own Diocesse, except the man exhibit letters Testimoniall, under the Seale of some Colledge, within one of the Universities where he before remained, or of three or foure grave Ministers, with the subscription of other credible persons who have known his life and behaviour, by the space of 3 years next before; and except he bring letters from the Bishop of the Diocesse wherein he is, and desiring to be a Deacon is 23 years old, and to be a Priest is 24 years compleat, and hath taken some degree of Schoole in either of the Universities, or at the least be able to yeeld an account of his Faith in Latine according to the Articles of Religion approved in the Synod of the Bishops and Clergie 1562. and to confirm

firm the same by sufficient testimonies out of the holy Scriptures.

Can. 36.

3 None may be received or admitted into this Ministry or calling that doth not first subscribe to these things.

1 That the Kings Majesty alone is under God Supreme governour in all matters Ecclesiasticall and Civill, within his own dominions.

2 That the Book of common Prayer, and of ordering of Bishops, Priests, and Deacons containeth in it nothing contrary to the word of God, and that it may be lawfully used, and that he himselfe will use the forme in the said Book, prescribed in publique Prayer and Administration of the Sacraments, and none other.

3 That he alloweth the book of Articles of Religion, and that he acknowledgeth all the same being in number 39. besides the ratification to be agreeable

S

to

to the word of God. And to these Articles he must subscribe in this forme. *I T. S. doe willingly, and ex naimo subscribe to these three Articles, above mentioned, and to all things that are contained in them.*

4 After this there followeth Consecration, or imposition of hands. The form whereof, see in the booke of ordering of Bishops, Priests, and Deacons.

5 None are to give any money more then due, and ordinary fees to be made Minister, or to have a License to Preach. Stat. 3 R. 2. lix
cap. 6.

6 And after a man is thus made Minister, if he be to take upon him any Cure of Soules, he must then be examined againe, and have a speciall License for the place, and if it be in another Dioceffe, he must then also have a Testimoniall from the Ordinary of the other Dioceffe, of his ability, honesty, and conformity. Can. 48.

Num. 3.

The Office and Duty of these
of.

officers doth consist in divers things, whereof some are more transcendent and superior, and some are more inferior, and common, as will appeare in all the particulars following.

The Office
and Duty
of all
Church
Ministers
in generall.

I Their duty in generall is Religion, to take care of Religion, viz. of the immediate service which is to be done to God, immediately for the honoring of his name, or of the performance of the externall duties of the first Table; the speciall parts whereof are the Sanctification of the Lords day, Prayer, Preaching, and hearing the Word of God, and Administration of the Sacraments. And herein (by the way) let it be observed the great care, and respect that the temporall Lawes of this kingdome have had of this matter in all times, as to maintain and cherish a Religion amongst the people; so to keepe Religion pure, and uncorrupt according to the Word of God. Hence

Co. 1. 14.
34 H. 6. 40.
13 Ed. 4. 8.
Stat. 1. Car.
cap. 1. See
Co. 3. in Mag-
dalen Col.
case. See cap.
9. part. 4.

are these Maximes, and Principles, *Somma ratio qua pro Religione facit*; Religion and Justice, are the main Pillars of the common wealth. The holy Scripture is of Sovereigne authority. The Gospell of Jesus Christ is of infallible truth, and the like. And hence are those expressions, by divers Acts of Parliament, as in 5 & 6 Ed. 6. cap. 3. *Forasmuch as at all times, men are not so mindfull to laud and prayse God, so ready to resort, and heare Gods holy Word, and to come to the holy Communion, and other laudable Rites, which are to be observed in every Christian Congregation, as their bounden duty doth require: Therefore to put men in remembrance of their duty, and to helpe their infirmities, some daies are appointed for Christians to cease from all other kinde of labors, and to apply themselves onely, and wholly to such holy workes pertaining to true Religion, that is, to heare, to learne, and remember*

member Almighty Gods great benefits, his manifold mercies, and inestimable goodnesse, plentifully poured upon all his Creatures, and that of his infinite and unspeakable goodnesse without any mans desert: and in memory hereof, to render to him, big and hearty thanks, with prayers, and supplications, for the reliefe of our daily necessities: these being the chiefe and the principall workes, wherein man is commanded to worship God, and being the duties of the first Table, &c. And in 5 and 6 Ed. 6. cap. 1. The blessing, mercy, and favour of Almighty God is in no wise so readily, and plentifully poured down, as by Common Prayers, due using of the Sacraments, and often preaching of the Gospell, with the devotion of the hearers, &c. and such like. And hence it is also that there are so many provisions touching this matter, touching the persons especially trusted about it, that none but such as are approved be admitted to any of-

fice therein, that those that are called thereunto doe demeane themselves according to the duty of their place, and the like.

2 In particular; One main thing belonging to the duty of this officer, is to see, and take care (as that wherein the life of true Religion doth principally consist) that he and his people doe truly sanctifie, and duly celebrate the Lords day, called Sunday; as also other Holi-daies, by a resting from their ordinary affaires, and an application of themselves in that time to holy use; as prayer, reading, &c. And here again (by the way) let it be observed (as touching the Lords day) how much the Civill and Ecclesiasticall Lawes both doe magnifie the same, and charge upon all men the due celebration of it. In the case of *Fish and Broket*, in 4. & 5 Eliz. It is said (and which is observable, it is said to be granted by all, *nullo contradicente*) That this day (by the Common Law) for the solemnity

Lords day,
or Sun-day

Stat. 5. & 6.
Ed. 6. cap. 6.
cap. 1. & 3.
1. Eliz. ca. 1.
Ca. 13. Stat.
1. Ca. cap. 9.
part. 4.

Plow. 265.

nity of it, is exempted from common works, and every man therein ought to abstaine from his secular affaires, to the intent that they may apply themselves to their prayers, and to honor God upon it. And in 9. *Jacobi*, in *Mackallies* case, by all the Judges of the Courts at *Westminster*, in a generall Assembly. And again by the Judges of the Kings Bench, in another case, 16. *Jac.* the authority and sanctity of this day was ratified. And it was agreed on, That on this day (save onely in case of necessitie) men ought not to travaile about their ordinary affaires, but to abstain from the same, and to apply themselves to the works of piety in the worship and service of God, and in the works of Charity. The doing of these common workes therefore upon this day, is called a Profanation of the Day. And hence it was, that albeit Trading and Traffique hath been alwaies favoured in Law, yet Faires and

Co. 9. 66.
In the Case
of one *Waite*
against the
Hundred of
Stoake,
pasch. 16.
Ac.

Stat. 1. Car.
cap. 1. 3 Car.
cap. 1. See
cap. 1. Num.
43. 12. Ed. 4.
1. 8.

Markets might not be kept on this day : And therefore it hath been heretofore held by some, That the sale of goods stolen in a Market or Faire on the Lords day, would not have altered the propertie thereof, as the sale of them upon another day would have done. And though the Law in this point, at this day be taken to be otherwise, yet is the thing still punishable, as a misdemeanor. So all voluntary Acts and works of Justice, albeit they are much favoured in Law, yet are they forbidden on this day. And therefore, if any part of the proceedings of a Suite be recorded to be done on this day, as if the Test of a Writ, or one of the Proclamations of a Fine be entred to be on this day, it makes all the proceedings erroneous, and yet a Fine (being one of the common Assurances of the Kingdome, and a thing done by consent of parties) hath all the favourable construction from Law, that may be:

Plow. 263.
Dyer. 168.
F.N.B. 17.6

12. Ed. 4. 2.

be : If the day of a Returne. *sc.* 4.
die, fall upon the Lords day, no
 Court shall be held, but upon
 the day following : for in this
 case, the Rule is, *Dies dominicus*
non est Juridicum. But indeed all
 Ministeriall workes that are of a
 kind of necessity, as to arrest mens
 bodies upon Proceſſe, to keep the
 Kings Peace, and the like are al-
 lowed to be done on this day.

And therefore all Officers and o-
 thers may, and ought upon this
 day, as well as upon others, to
 keep the Kings Peace, suppress
 uproares, arrest them that breake
 the Peace, pursue and take felons
 after felonies committed. And
 for this purpose also they may,
 and must (having notice) either
 absent themselves, or depart from
 the Service of God it selfe. *Bo-
 num est bene facere in Sabbatho*.
 And answerable to all this is the
 charge of the Canon, the words
 whereof are these; *All manner
 of persons shall from henceforth cele-
 brate and keepe the Lords Day, and
 other*

Constables
 Peace.

Co. 9. 66.
 Agreed in
 the Case of
Waite before.
 Mark. 2. 27.
 Mat. 12. 12.
 Acts. 17. 7. 9.
 10.
 Can. 13.

other Holy-dayes, according to Gods holy Will and Pleasure, and the orders of the Church of England prescribed, that is, in hearing the Word of God read and taught, in private and publique prayers, in acknowledging their offences to God and amendment of the same, in reconciling themselves charitably to their neighbors, where displeasure hath been, in often times receiving the Communion of the body and blood of Christ, in visiting of the poore and sicke, using all good and sober conversation.

Preaching.

3 The next maine thing belonging to the duty of these Officers, is to reade and preach (viz. to expound and apply) the word of God to their people. And under this branch of their duty are contained all these particulars following.

1 They are to take care that they doe teach the people pure and wholsome doctrine, according to Gods Word. And therefore it is provided, that they shall

not

Stat. 13. Eliz.
cap. 12.

not affirme or maintaine any doctrine directly contrary, or repugnant to the Articles of Religion.

Can. 2.

2 They must to the uttermost of their wit and learning, sincerely preach publiely in their Sermons in the Church foure times a yeere at the least the Kings Supremacy in all causes Civill and Ecclesiasticall, next under God, and may not in their doctrine oppose the same, under paine of Excommunication.

Can. 3.

3 They are not to affirme, that the Church of *England* is not a true and Apostolicall Church, teaching and maintaining the doctrine of the Apostles, under the like paine.

Stat. 3. & 3.

Ed. 6. cap. 1.

Can. 4.

4 They are not to teach any thing to deprave or derogate from the Booke of Common Prayer, under paine for the first offence to be imprisoned fixe moneths without Bayle or Mainprise, and for the second offence to be imprisoned during life.

5 They

5 They are not to affirm that the forme of Gods worship established by law in the Church of England, and contained in the book of common Prayer and Administration of the Sacraments is corrupt, superstitious, or unlawfull, or containeth any thing in it that is repugnant to the Scriptures, under paine of Excommunication.

6 They are not to affirm any thing in the 39 articles agreed upon in the year 1562. for the avoyding of diversities of opinions, and for the establishing of Consent touching true Religion; is in any part superstitious or erroneous, or such as they may not with good conscience subscribe unto, under the like paine. Can. 5.

7 They are not to affirm that the Rites and Ceremonies of the Church of England, by law established, are wicked, antichristian, or Superstitious, or such as being commanded by lawfull authority, Can. 6.

ty, men who are zealously, and godly affected, may not with any good conscience approve, use, or as occasion requireth, subscribe unto, under the like paine.

Can. 7.

8 They are not to affirme, that the government of the Church of England, under his Majesty, by Archbishops, Bishops, Deans, Archdeacons, and the rest that beare office in the same, is Antichristian, or repugnant to the Word of God, under the like paine:

Can. 8.

9 They are not to affirm, that the forme and manner of making Bishops, Priests, or Deacons, containeth any thing in it that is repugnant to the word of God; or that they who are made in that manner, are not lawfully made, nor ought to be accounted of so untill they have some other calling to these divine offices, under the like paine.

Can. 10.

10 They may not affirme, that such Ministers as refuse to subscribe

scribe to the forme of Gods worship prescribed in the Church of England, and their adherents, may truly take unto them the names of another Church not established by Law, or that they have a long time groaned under the burthen of certain grievances imposed on them, under the pain aforesaid.

11 They are not to affirme Can. 12
that there are within the Realme other assemblies of the Kings Subjects then such as by the laws of this land are held and allowed, which may rightly challenge to themselves the name of true and lawfull Churches, under the like paine.

12 They are not to affirme, Canon 12
that it is lawfull for any sort of Ministers, & Lay persons, or either of them to joyne together, and make Rules, or Constitutions in causes Ecclesiasticall without the Kings authority, nor to submit themselves to be ruled by
them

them, under the like paine.

13 They are once every Stat. 3. & 6.
Ed. 6. cap. 2. year, in the Church at a time of the greatest assemblie, to reade the Statute of 5 and 6 *Ed. 6. cap. 1.* and to declare, and set forth to the people by the authority of the Scripture, how the mercy and goodnesse of God hath in all ages been shewed to his people in their necessities, and extremities, by meanes of hearty and faithfull prayers made to almighty God; especially where people be gathered together, with one Faith and Minde, to offer up their hearts by Prayer, as the best Sacrifices that Christian men can yeeld.

14 They may not Preach or Teach that any eating of Fish, or forbearing of Flesh according to Stat. 3. Eliz.
cap. 5. the Statute of 5. *Eliz.* is of any necessity for the saving of the Soule of man, or that it is the service of God, otherwise then as other politike laws are, and be

be under pain to be punished, as spreaders of false news.

15 They may not make a public opposition one against another in their Preaching to trouble the Peace of the Church.

Can. 53. See
cap. 9. Num.
5. Can. 71. 72.

16 They may not Preach in private houses, or in any other places but Churches, or Chappels dedicated to holy use, without speciall license from the Bishop.

Prayer and
thanksgiv-
ing.

4 The next main thing belonging to the duty of these officers, is publicly, to pray for and with the people, and within this is comprehended the duty of thanksgiving; and under this branch of their duty are contained these particulars.

Before
Sermons.

1 They are to pray before their Sermons, for Christs holy Catholike Church, and especially for the Churches of *England*, *Scotland* and *Ireland*, and therein for the Kings Majesty, and the Queen, and their Children, for the Ministers of the Word and

Sa^r

Sacraments, as well Archbishops, and Bishops, as other Pastors, and Curates, for the Kings Councill, Nobility, and Magistrates, &c. and then they must alwayes conclude with the Lords Prayer.

Stat. 3. Jac.
cap.

2 They are to give warning to the people of the fifth of November, the Sunday before, and then to meet once at the Church, and give thanks to God, for our deliverance from the Gunpowder Treason; and then also they may preach, if they will, and the people are to meet there: And the same day after morning prayer, they are to read publikely, distinctly and plainly, the Statute of 3 Jac. cap. 1. to the people. Gunpowder treason.

Can. 14.

3 They are to say common Prayer, distinctly and reverently, upon such dayes as are appointed to be kept holy by the book of common Prayer, and their Eves, and at convenient and usuall times of those dayes, and in such place of every Church as the Ordinary Common Prayer.

T dinary

dinary shall appoint for the largesse and straitnesse of the same, so as the people may be most edified.

Letany.

4 The Letany is to bee said Can. 15.
when, and as it is set down in the Book of Common Prayer, upon Wednesdaies, and Fridaies weekly by the Minister, in some convenient place in the Church, where the Ordinary shall appoint at the accustomed houres of Service.

Sacraments,

5 The next maine thing belonging to the duty of these officers, is duly to Administer the holy Sacraments to the people. And under this branch of their duty are comprehended these particulers. See Cap. 9.
part. 4.

1 They are not to refuse, or delay to Christen any childe that is brought to the Church to them upon Sundayes, or Holidayes to be Christned, under pain of Suspension from their Ministry for three moneths. Can. 68.

2 If

Can. 69.

2 If they be informed of the weaknes and danger of death of any Infant unbaptized, and desired to come to baptize it, they may not refuse or delay so to doe under paine of Suspension for 3 moneths in case the childe dye unbaptized.

Stat. T. E. 6.
cap. 1. can.
80, 21.

3 The Sacrament of the Body and Blood of our Saviour Christ (said to be a comfortable Sacrament instituted by our blessed Saviour in remembrance of him, and to shew forth his death till his comming) is to be administered so oft every year that every Communicant may receive three times at the least, whereof once to be at Easter.

4 The Ministers (being these officers) are the Sunday before publikely in the Church at Morning Prayer to give notice, when they doe intend to celebrate this Sacrament, and at that time the better to prepare the people, they are to give them some godly

T 2 ex-

exhortation, and therein to set forth the benefit of worthy, and danger of unworthy receiving thereof. And they are then to direct the Churchwardens what quantity of Bread and Wine they shall provide.

5 They may not use any Bread or Wine newly brought, before the words of Institution shall be rehearsed, when the Bread and Wine is present upon the Table.

6 They are, as often as they doe administer this Sacrament to others, first to receive the same themselves.

7 They must deliver it in both kinds, viz. Bread and Wine, to every Communicant severally.

8 They may not deny this Sacrament to any person, that shall humbly and devoutly desire the same.

9 They may not administer this Sacrament in private houses, Can. 71.
but

but in case of necessity, where one is dangerously sick, and desireth the same, under pain of suspension for the first offence, and Excommunication for the second offence.

Can. 26.

10 They are not to admit to this Sacrament any which be openly known to live in sin notorious without repentance; nor any who have maliciously and openly contended with their neighbours untill they shall bee reconciled; nor any Churchwardens or Sidemen, willingly and desperately perjured in not presenting, according to their Oath, such crimes notoriously known to the Minister & others, albeit the same officers were much urged thereunto.

Can. 28, 27.

11 They are not to admit strangers of other parishes, if they know them to come often, and commonly to receive this Sacrament in their Churches.

Can. 27.

12 They are not willingly to

T 3 ad-

administer this Sacrament to any but such as kneel under paine of Suspension, nor under the like pain to any that refuse to be present at publike Prayers according to the orders of the Church, nor to any that are common and notorious depravers of the book of common Prayer, and administration of the Sacraments, and of the Orders, Rites, and Ceremonies therein prescribed, or of any thing that is contained in any of the Articles of Religion, or of any thing contained in the book of ordering Priests and Bishops, or to any that have spoken against the Kings Supremacy, except such person have acknowledged to the Minister before the Churchwardens his repentance, and promised by word (if he cannot write, and if he can by writing) that he will doe so no more. And if the Minister doe refuse to admit any person to this Sacrament, and he complaine thereof
to

to the Ordinary, and the Ordinary send to the Minister, he is to signifie the cause of his refusall to the Ordinary.

2 & 3 Ed. 6.
cap. 1.

1 Ed. 6. cap. 1.

8 Eliz. cap. 2.

6 The next thing that they are to look unto, is, that in their open and common Prayers, and administation of each of the Sacraments in open Churches, Chappels, or Oratories, they doe observe the Manner, Form, Rites, and Ceremonies set down in the book called the book of common Prayer and Administation of the Sacraments, and none other or otherwise. And herein these things are to be known. Forme of
Worship.

1 If any Minister refuse to use the same common Prayer or to administer the Sacraments in that order and form, as is set forth by the same book, or shall use, wilfully and obstinately standing in the same, any other Rite or Ceremony in any of the said services, if he have no spirituall promotion, he shall be imprisoned

for six months without baile or mainprise, and if he shall offend againe, he shall suffer imprisonment for his whole life.

2 All Ministers must observe Can. 14
the Orders, Rites, and Ceremonies, prescribed in the book of common Prayer aswell in reading the holy Scriptures, and saying of Prayers, as in administration of the Sacraments; without either diminishing in regard of preaching, or in any other respect, or adding any thing in the matter or form thereof.

3 And every Minister saying Can. 53.
publike Prayers, or ministring the Sacraments or other Rites of the Church, is to weare a decent and comely Surplisse with sleeves to be provided at the charge of the Parish, according to the discretion of the Ordinary. And such as are Graduates, are at such time to weare upon their Surplisses such Hoods as by order of the Universities are agreeable
to

to their degrees : And others that are no Graduates may weare upon their Surplisses instead of Hoods some decent Tippet of black, so it be not silk.

Can. 59.

7 They must upon every Catechising. Sunday and Holiday, before Evening Prayer for halfe an houre or more examine and instruct the youth and ignorant persons of their Parish, in the ten Commandements, the Articles of the Beliefe, and in the Lords Prayer : and shall diligently hear, instruct and reach them the Catechisme, set forth in the book of common Prayer, under paine for the first offence, to be sharply reprov'd by his Ordinary, for the second to be suspended, and for the third to be excommunicate; And every man is bound to send his children and servants, and they are bound to come being sent, to be Catechised.

Can. 61.

8 They must doe their endeavour to bring as many Children to Confirmation.

to

to the Bishops Confirmation as they may, and to instruct and prepare them for the same.

Visiting
the sick.

9 Every Minister having notice of any one of his people dangerously sick (if the disease be not infectious) must resort to him to instruct, and comfort him in his distresse according to the order of the Communion book, if he be no Preacher, or if he be a Preacher, as he shall thinke needfull. Can. 67.

Buriall of
the dead.

10 No Minister may refuse, Can. 67, 68.
or delay to bury any Corps that is brought to the Church or Churchyard (convenient warning being given to him thereof before) in such manner as is prescribed in the book of common Prayer, except the party were denounced excommunicate, *majori excommunicatione*, for some grievous crime (and no man able to testifie of his repentance) under paine of suspension from his Ministry for three moneths.

11 They

Can. 50.

11 They may not suffer any Strange stranger to Preach within their Churches, but such as shall shew their License to them, and the Churchwardens first. Preachers.

Can. 52.

12 No Minister or Ministers may without License under the hand and seal of the Bishop of the Diocese appoint or keep any solemn Fasts either publikely, or in any private houses, other then such as by Law are, or by publike authority shall be appointed, nor shall be wittingly present at any of them under paine of suspension, for the first fault; of excommunication, for the second; and deposition from the Ministry, for the third. Neither shall any Minister not licensed, as aforesaid appoint or hold any meetings for Sermons or Exercises under the said paines. Nor without such Licence attempt upon any pre-
sence whatsoever either of possession, or obsession, by fasting and Prayers to cast out any Devill or Devils

devills, under paine of imputation of imposture, or couenage and deposition from the Ministerie.

Recusants. 13 Every Minister that is a *Can. 66.*
Preacher, and that hath any Popish Recusant within his charge, shall doe his uttermost endeavor to reclaime him, or get some other able man (if he be not able himselfe) to take pains with such person for that purpose.

Convenc-
ticles.

14 No Ministers, nor any other persons, may meet together *Can. 73.*
in any privat house, or elsewhere to consult upon any matter or course to be taken by them, or upon their motion or direction by any other, which may any way tend to the impeaching or depraving of the doctrine of the Church of *England*, or of the Booke of Common Prayer, or of any part of the government and discipline now established in the Church of *England*, under paine of Excommunication, *ipso facto.*

15 No

Can. 72.

15 No Minister, under paine of Suspension *per triennium ipso facto*, shall celebrate Matrimony between any persons without a Licence duly granted, except the Banes of Matrimony have been first published three severall Sundayes or Holy-daies, in the time of Divine Service, in the Parish-Churches where the said parties dwell, according to the Booke of Common Prayer. Neither may they marry any persons at any unseasonable times, but only between the houres of 8. and 12. in the forenoone. Nor in any private place, but in either of the said Churches where the said parties dwell, and in time of Divine Service. Nor (in case where the parties be under the age of Twenty one yeers) before the parents, or governours of the parties shall signifie their consents to the same marriage.

Marriage
without
Licence or
Banes.

Clandestine Mar-
riages.

Can. 64.

16 Every Minister is to give Bidding notice to his people every Sun-holy-daies.
day

day at the time appointed in the Communion Booke, whether there be any Holy-dayes, or Fasting daies the weeke following.

Booke of
Christ-
nings, mar-
riages, and
Burialls.

17 The Minister is every Sunday to set down the names of all that are Christened, married, or buried, the week before within his Parish. See in cap. 9. numb. 5. part. 8. Can. 70.

Godfa-
thers.

18 The Minister must not admit any Parent to answer as a God-father, nor any God-father to answer otherwise then is in the Booke of Common Prayer, nor any person to be a God-father, or God-mother before the same person hath received the holy Communion. Can. 29.

Conversa-
tion,

Haunting
of Ale-
houses.

19 No Minister may at any time other then for his honest necessities, resort to any Tavernes or Alehouses, neither may they board or lodge in any such places, neither may they give themselves to drinking or Ryot, spending Can. 75.

ding their time idly by day or night, playing at dice, cards, or Gaming.
 Tables, or other unlawfull game: but at all times convenient, they shall heare or reade somewhat of the holy Scriptures, or shall occupie themselves in some other Reading.
 honest studie or exercise, alwayes doing the things which shall appertaine to honesty, and endeavoring to profit the Church of God, having alwayes in minde, that they ought to excell all others in purity of life, and should be examples to the people to live well and Christianly, under pain of Ecclesiasticall censures to be inflicted with severity, according to the qualities of their offences.

Can. 75.
 stat. 21. H. 8.
 cap. 13. Dy-
 er. 358.

20 No Minister may give Secular
 himselfe to any base or servile la- Affaires.
 bor: neither may such a man cum-
 ber himselfe with secular affaires
 to distract himselfe in his of-
 fice. And therefore it is provi-
 ded, That no Spirituall person
 what-

whatsoever may take to farme to himselfe, or to his use, from the King, or any other by word or writing, any Lands or Tenements (more then enough to maintaine his house keeping, or except it be a house to dwell in, a garden, or the like) for life, for years, or at will, under paine to forfeit ten pound for every moneth he, or any other to his use, shall enjoy such lands or Tenements under colour of such Lease. But in this case the Lease is good notwithstanding. Neither may any such person by himselfe, or any other, buy any living or dead Merchandizes with an intent to sell the same againe to make gaine, under paine to forfeit the treble value thereof. And yet for their own necessary use they may buy without danger; neither may any such person keep a Tan house, or Brew house, but only to brew his own Beer, under paine to forfeit ten pound a moneth.

Canon 74.

21 The Ministers in their ap- Decent.
parell ought to be sober and apparell.
grave, sutable to their calling;
And they are usuallly to weare
Gowns with standing collers and
sleeves, strait at the ends, or
wide sleeves, as is used in the Uni-
versities, when they are at home;
and when they travaile abroad,
they are usuallly to weare Cloaks
with sleeves, commonly called
Priests Cloaks; And they are not
to go without Coats or Cassocks,
neither are they to wear wrought
night Caps; See the Canon at
large.

Can. 114,
112, 113.

22 They are to labor to finde Present-
out all the Popish Recusants ment,
within their charges, and to
present their names to theordi-
nary every year, under pain of
suspension. See the Canon.

2 They are to joyn with the Church-
Churchwardens, and all they are
yearly within 40 dayes after Ea-
ster to give to the Bishop or his
Chancellour, the names of all the

V persons

persons, men and women, above 16 years of age that did not receive the Communion at Easter before.

3 They may (if they please) joyn with the Churchwardens and Sidemen in their generall Presentment. And if they shall refuse to Present, and to joyne with the Minister in the Presentment of such enormities , as are apparent in the Parish, the Minister of himselfe , and alone may Present the same to the Ordinary:

Testimonia-
niall.

23 They are to Register the Testimonials, that are made to servants at the end of their terms, and they are to have for the same two pence, and not above.

See cap. 14
Numb. 20.

Rogue.

24 They are to assist the Constables in the punishment of a Rogue. And then they are to Register in a book made and kept for that purpose, the Testimoniall that such a Rogue is to have after his whipping, and this they

See cap. 12
Numb. 19.

they are to doe under pain of five shillings for every default.

stat. 5. Eliz. cap. 5. 25 The Minister may give li- Licence to
cense to any sick person (during eat flesh.
the sicknesse only) to eat flesh
upon dayes prohibited. And
this license they must Register in
the Church book, if the sicknes
continue above eight daies after
the license, and he may take for
the same foure pence. But no
such license granted by force of
this Statute will warrant any
such sick person to eat any Beefe,
Veale, Pork, Mutton, or Bacon
in Lent, or upon any Fish day.

Stat. 1. Jac.
cap. 19.

26 The Minister may require
any person within three moneths Recusants
after his Conviction upon the
Statute of 35 Eliz. cap. 1. for re-
fusing to come to Church to
make publike Confession and
Submission in the Service time
on a Sunday or Festivall day (the
form of which Submission is set
down in the Statute.) And the
Minister after such submission

V z of

of Conformity made as aforesaid must presently enter the same into a book kept for that purpose: and within 10 dayes next following shall certifie the same in writing to the Bishop of the Diocese. And he that shall (after notice to him given by the Minister or Churchwardens) maintain or retain in his house, or otherwise, any person obstinately refusing to come to Church, and that shall forbear the same a moneth together shall lose ten pound for every such person for every moneth so maintained or retained.

Popish Re-
cusant.

27. The Minister, and the Constable or Tithingman of the Town to which any Popish Recusant is sent, shall (upon notice thereof by himsele) enter the same into a book to be kept in every Parish for that purpose: and shall certifie the same to the next quarter Sessions of the Peace in that County.

Binding
apprentice.

28 The Minister is to look to
the

Stat. 35. Eliz.
cap. 5.

See before
ca. 6. Num. 9.
part. 13.

the imploiment of the mony given
for the binding of poore children
apprentices, where any money is
so given.

Can. 48.

29 No Minister may serve
more then one Church on one
day, except it be a Chappell, that
is a member of his Church, or
united thereunto, or except the
Church shall be in the Judge-
ment of the Ordinary so poore, as
it is not able to maintaine a Cu-
rate.

Serving
two Cures.

It must be observed, that a-
mongst these Ministers, some are
beneficed, that is, have some
Ecclesiasticall living, or Spiritu-
all promotion, as Parsonage, Vi-
carage, or the like, incident to
their Cures and Charges, which
Livings they hold for their lives,
in recompence of their paines
and labour amongst their peo-
ple: And some are not beneficed,
but have only a yeerly stipend, or
uncertaine Contribution in re-
compence of their pains amongst
their

Num. 4.
The Office
and Duty of
Beneficed
Ministers
in particu-
lar.

their people. And to all these alike, and indifferently doe the greatest part, if not all the duties and matters aforesaid belong. But now we are to speake of such things as doe severally, and onely belong to such Ministers as have Benefices, and none others: And for the discovery hereof, these things are to be knowne.

I If after a man is made Minister, and have passed through all the severall things before required, to give a man an entrance into his office, if then he gaine any Spirituall living, and be to be admitted thereunto, he must be then examined of his life, and learning, *de novo*. And if he be made Minister by another Bishop then him that is to give him his Institution into his Living, he must first shew to the Bishop that is to institute him his Letters of Orders, and bring with him a sufficient Testimony of his former good life and behaviour, if
the

Can. 39. 48.

the same Bishop shall require it.

Stat. 13. Eliz.
cap. 12.

2 No Minister may be admitted to any Benefice with cure, except he be then of the age of 23. yeeres at the least, and a Deacon, and shall first have subscribed to the Articles of Religion in the presence of the Ordinary, and publikely read the same in the Parish Church of that Benefice, with Declaration of his unfained assent to the same. And none may be admitted into any Benefice with Cure, of, or above the value of 30^l. yeerely in the Kings Bookes, unlesse he shall then be a Bachelor of Divinity, or a Preacher lawfully allowed by some Bishop, or one of the Universities of the Realm: And all Admissions to Benefices, Institutions, and Inductions to be made against the forme of this Statute, and all Tolerations, dispensations, Qualifications, and Licenses made to the contrary hereof are voide.

Simony.

3 Such person so to be promoted to any Spirituall living, must take great heed, that for the gaining of the same, he give or promise no Reward: for if the Minister himselfe, to be promoted, doe give or promise the Reward, or by his assent, precedent or subsequent, be partie, or privie to it, he is said in Law to be *Simoniacus*; but if the Reward be given or promised by another, without his privity, he is said in Law to be *Simonaicè promotus*: And the effect and consequence of this will be in both cases, that the Presentation so made by *Simony*, and the Admission, and Institution thereupon will be voide, the person so promoted will be for ever disabled by Law to enjoy that Ecclesiasticall promotion, the parties to this corrupt contract, shall forfeit the double value of one yeers profit of the same Living, the Patron shall lose his Presentation for this turne, and the parties may be

Stat. 31. Eliz.
cap. 6.

be punished by Ecclesiasticall censures notwithstanding. And in these cases these men must take heed of giving to any other, as well as to the Patron, and for his Institution, &c. as well as for his Presentation. For if any man shall for any Reward (more then ordinary Fees) in present, or future, directly, or indirectly, install, admit, or institute any person into any Benefice with cure of Soules, this is an offence, for which the persons so offending shall lose the double value of one yeeres profit of the Church, or dignity, the Presentation will become voide, and the Patron may present, as if the incumbent were dead. And yet the parties may be punished by Ecclesiastical censures. And the better to prevent this detestable Sinne, the Ordinarie before he doe grant to the partie Institution and Admission into his Benefice, is to minister to him, and require of him a strict

strict oath to purge himselfe of this crime. The which Oath if he doe refuse to take, or if the Ordinary upon the examination of him doth finde that he hath gained the Presentation upon any such corrupt agreement, he may refuse to admit him, and justifie his refusall.

Reading
the articles
of Religi-
on.

4 Every Minister that shall be admitted to a Benefice with Cure except that within two moneths after his induction, he doe publicly read the same Articles of Religion in the same Church, whercof he shall have Cure in the time of common Prayer there, with declaration of his unfeigned assent thereunto, and except he be admitted to minister the Sacraments within one year after his induction, if he be not so admitted before, shall upon every such default be *ipso facto*, immediately deprived. And in this case, the Minister must take care that he read the very same Articles

Stat. 13. Eliz.
cap. 12.

cles

cles *verbatim*. And therefore it will be his wisdom to read them out of the same Book and none other, for if he read them out of any other Book, which doth vary ever so little from the Originall Copy, this will not be sufficient. And therefore it was held by Justice Jones, at an Assises at Glouc. clearly: That if a Minister read the Articles out of Rogers Exposition of these Articles, and as the Articles are transcribed in that Book, that this is not a good Reading within the Statute; and it was then reported by him, that this Case fell out of late. The Minister being to read these Articles tooke the right book with him, and laid it by him on his Deske, untill he had read some common Prayers, intending then to read it; and in the mean time by the Patrons means, that book was privily conveyed away, and another book (which did not containe a true Copie) foisted in-

to

At summer
Assises 2. Car

eliz.

to the place thereof, the which other book the Minister did take up and read. And this was adjudged no good reading of the book within the Statute, and here upon the Minister lost his living.

5 It is the duty of all Ministers, but especially of Beneficed Ministers, to be resident and abiding upon their Benefices amongst the people of whose Souls they have the charge, there to instruct and teach them, and there to give unto them all good Example of Pietie, charity, and hospitality. For that Minister that hath the Cure of Souls, and is not resident upon, but absent from his charge, without good cause, *non est dispensator, sed dissipator, non speculator, sed spiculator*. And upon this branch these things are to beknown.

Co. 11. 70. 6.
21.

1 That for this cause to prevent Nonresidence, it is generally forbidden to all men by the ancient common Laws of this Kingdom to have more Benefices
ancient

Non resi-
dence.

with Cure then one: *Nam res ipsa loquitur plura Beneficia potissimum quibus animarum cura submissa est, non sine gravi Ecclesiarum damno ab uno obtineri, cum unum in pluribus Ecclesiis rite officia persolvere aut rebus earum necessariam curam impendere nequeat.* And

4 resp. 795.

Stat. 21. H. 8. cap. 13.

26 H. 8. c. 14.

25 H. 8. c. 19.

33 H. 8. c. 23.

now by the Statute Laws, if any man (except only some speciall persons qualified therefore) that hath a benefice with cure of souls, of the yearly value of 8^l. or above doe accept of another with Cure of souls, & be inducted thereinto the first shall be adjudged to be void, and the Patron may be present againe. And no License or Dispensation will availle in this case; See the Statutes.

Can. 41.

2 No Licenses are to be granted for Non residence, but to able men, and with good caution that they be resident upon their Benefices at some certaine times, and that they have under them in the Benefices, where they doe not reside

reside, a sufficient and lawfull Preacher to teach and instruct the people.

3 Every Beneficed man, licensed upon urgent occasions of other service not to reside upon his Benefice, shall cause his Cure to be supplied by a Curate that is a sufficient and licensed Preacher, if the worth of the Benefice will beare it : But whosoever hath two Benefices shall maintain a Preacher licensed in the Benefice where he doth not reside, except he Preach himself at both of them usually.

Lease.

4 No Lease of any Benefice, with Cure or any part thereof, not being impropriated, shall endure for any longer then while the Lessor shall be ordinarily resident and serving the Cure of such Benefice without absence above fourescore daies in any one year, but that every such Lease immediately upon such absence, shall cease and be void, and the

*Stat. 13. Eliz.
cap. 20. 18.*

*Eliz. cap. 16
14. Eliz. cap. 16*

In-

Incumbent so offending shall loose one yeeres profit of the same Benefice. But every one allowed to have 2 Benefices, may let the one of them, on which he is most commonly non-resident, to his Curate onely that shall serve the Cure for him. And yet such Lease shall endure no longer then during the Curates Residence, without absence above 40 daies in any one yeere.

Can. 45.

5 Every Beneficed man allowed to be a Preacher, and residing on his Benefice, having no lawfull impediment, shall in his own Cure, or some other convenient Church neare adjoyning (where no Preacher is) preach one Sermon every Sunday of the yeere, wherein he shall soberly, and sincerely divide the word of Truth to the glory of God, and best edification of the people. Preaching.

Can. 46.

6 Every Beneficed man, not allowed to be a Preacher, shall procure Sermons to be preached in

in his cure once in every moneth at the least by Preachers lawfully licensed, if his living in the judgment of the Ordinarie will beare it. And upon every Sunday, when there shall not be a Sermon in his Cure, there must be read some one of the Homilies prescribed and appointed to the intent aforelaid.

7 If any person that hath any Ecclesiasticall living, shall advi-
 sedly maintain or affirme any do-
 ctine directly contrary or re-
 pugnant to the Articles of Reli-
 gion, and being convented be-
 fore the Ordinary, or before the
 Kings Commissioners in causes
 Ecclesiasticall, shall persist there-
 in, or not revoke his error; or
 after such revocation, estsoones
 affirme such untrue doctrine; ei-
 ther of these offences shall be just
 cause to deprive such person of his
 Ecclesiasticall promotions: And
 the Ordinarie or Commissioners
 may in such case deprive him:
 And

Doctrine
 against the
 Articles of
 Religion.

Stat. 13. Elia
 cap. 12.

him : And upon such sentence, by either of them pronounced, hee shall be indeed deprived.

8 If any such beneficed Minister in saying of Common Prayer and administration of the Sacraments shall refuse to follow the form and manner set forth in the book of common Prayer, or shall use (wilfully and obstinately standing in the same) any other rite, form, or ceremony then is mentioned, and set forth in the said book in the common Prayer; [.i. in the Churches or Chapels] or shall Preach or speak any thing in the derogation or depraving of the said book, or any part thereof; he shall for the first offence forfeit one years profit of such one of his spirituall promotions, as the Kings highnesse shall set down, and shall suffer imprisonment for the space of sixe months, without baile or mainprife : And for the second offence, if he offend againe, he shall

Doctrine
against the
book of
common
Prayer.

be deprived *ipso facto*, of all his Spirituall promotions, and suffer imprisonment one whol year: And for the third offence, shall suffer imprisonment during his life.

Reading
common
prayer.

9 Every Minister that hath a Can. 56. Benefice with Cure of soules, or is a Lecturer, shall at least twice every year in his own Church publikely at the usuall times, read Divine Service according to the forme set down in the booke of common Prayer; and twice every year administer each of the Sacraments (if there be occasion) according to the form prescribed in the same book.

Leases
made by
them.

10 They are to look to, and Stat. 13. Eliz. cap. 20. preserve their Benefices, and the rights and profits thereof, and not to make spoile thereof themselves, nor suffer themselves to be spoiled thereof. And therefore it is provided,

1 That they may not make any lease of their glebe, or Tithes for

for longer time then their own lives. And as for other things (if they have any belonging to their Benefices) that they make no leases thereof for longer time then their own lives : for their Leases will be good but so long as they shall be resident , and then their death will make an end of those Leases.

Stat. 13. Eliz.
cap. 10.

2 They are to keep and maintaine the houses and buildings, standing upon, and belonging to their Benefices, in good reparations: for if they suffer any dilapidations. .i. any wilfull or negligent ruine or decay thereof , their Executors or Administrators must make amends therefore to their Successors ; who for that purpose may sue them for the same in the Spirituall Court.

Dilapidations.

And if any such offenders shall make a Deed of Gift of fraud to defeat their Successors of the effect of their Suit , such a Deed

Fraud.

X 2 of

of a Gift, as against such Successors will be void.

11 No spirituall person Beneficed with Cure may have or occupy by himselfe or any other to his use any Parsonage, or Vicarage in Farme of the Lease of any person whatsoever, nor take any profit or rent out of such Farme, under paine of forty shillings, for every week he shall so doe, and under paine to lose ten times the value of such profit, or rent as he shall take out of any such Farme.

Stat. 21. H. 8.
cap. 13.

First fruits
and Tenths.

12 They are to take care to see their first fruits, and tenths paid to the King duly. For which See the Statutes of 26. H. 8. cap. 6. 32 H. 8. cap. 45. 5 Mar. cap. 10. 1 Eliz. cap. 4.

Curates.

No Curate may serve in any place without examination and admission of the Bishop of the Diocese or Ordinary of the place in writing under his hand and seale. And if the same Curates remove from one Diocese
to

Can. 48.

so another they may not be admitted to serve there without testimony of the Ordinary of the place whence he came in writing, of their honesty, ability, and conformity to the Ecclesiasticall lawes ; Nor may any one serve more then one Church or Chappell in one day , except that Chappell be a member of the Parish Church, or united thereunto, and unlesse the said Church or Chappell, where such a one shall serve in two places, be not able in the judgement of the Ordinary to maintain a Curate.

Hitherunto have we spoken of *Num. 6.* such things only as doe concern the worke and duty of these officers , and now we come to those things which doe concern their wages and reward , which are the priviledges the Law doth give them above other men; some of which doe concern their persons, and some their estate.

The priviledges of these officers above other men.

Church Ministers.

priviledges that do concern their persons are these.

1 Their bodies may not be arrested upon a Statute Merchant, or Staple; and if they be, they may have a Writ called, *Quod Chricus captus virtute Statuti delibetur*, and thereby they may get themselves at liberty againe.

Stat. de Mercatoribus 13
Ed. 1 Regist.
Or. 147.

2 They may not be arrested in any case whiles they are *bona fide* in doing and about their divine function. And therefore none may arrest them (at the least at the suit of any common person) in their going to, or returning from the Church, about the worship and service of God. And if any shall presume so to doe, the Minister may have the party that so doth, punished for this in the Star Chamber, as a misdemeanor. Howbeit the arrest in Law is a good arrest, *Fieri non debet, sed factum valet*. And yet if a Minister shall of purpose by fraud

Stat. 50. E. 3.
cap. 5. 2 R. 2.
cap. 15. 1 Mar.
cap. 3.

fraud and collusion, to delay or deceive men of their just and due debts, or duties, keep themselves in the Church, or about such divine Service; in this case their privilege will not shelter them, but they may be arrested notwithstanding.

Regist. Or.
187. F. N. B.
173.

3 They are freed and exempted from, and not to be chosen to serve in any temporall office that may disturbe or distract them in this office or calling, as Constable, Tithingman, Bailife, Bedell, or the like. And albeit they have other estate in land, or otherwise besides their spirituall estate and promotion, in respect of which they seem to be chargeable, yet they are to be exempted. And therefore if they shall be charged with any such office in any place, they may by a writ called, *Quod Clerici non elegantur in Officio*, &c. have reliefe, and procure their discharge.

Constable.

Marlb. c. 10.

4 They are not bound to ap-

X 4

peare

Church Ministers.

peare and doe service in the Leet and Law-day, as other men are bound to doe. The priviledges that doe concern their estate are these.

1 No distresses may be taken in their ancient lands belonging to their Churches. And if any shall so doe, the Minister may have an action against him for the same.

Articuli Cleri. cap. 9. F.N. B. 173. E.

2 If any officer distrain a Ministers horse whiles the Minister is in his journey in the Kings highway, the Minister may have remedy against him by a Writ in the nature of a Prohibition upon the Statute of *Articuli Cleri*.

Idem. F.N.B. 173. E.F.

3 Their goods, being in their possessions annexed to their Benefices may not be taken by the Kings officers for the payment of Taxes, or Fifteens granted to the King : And if their goods be taken in this case, they may have a Writ called, *Quod persona nec prebendarii*

F.N.B. 176.

præbendarii distringantur, &c. and thereby relieve themselves.

Cromp. Jur. 4 They may sue a Protection
38. for themselves, and their goods :
Cle- And so they may also for the
F.N. Farmers of their Lands, and their
goods, that they be not taken by
the Kings Purveyors, nor their
Cariages or Chattels taken by o-
ther the Kings servants: And if any
Purveyors or officers shall op-
N.B. presse them herein, they may have
a speciall Commission to certain
persons to arrest them, and to
bring them before the Kings
Counsaile to answer the misde-
meanor; or (as it seems) they may
be punished for this offence in the
Starre-Chamber.

5 Although they are to be
charged (in respect of their Be-
nefices, by the expresse letter of
the Statute) to the rates of the
poore as well as other men; yet
for other ordinary payments to
the King; Church, &c. it seemes
they ought not to be charged.

6 Whereas

Churchwardens,

6 Whereas other men are stinted to keep but a certain number of sheep, these men are at liberty to keepe as many as they will, by the Statute of 25. H. 8. chap. 13.

7 It is thought also, that they ought to have, and may recover where they may have not a competent allowance and maintenance out of the Tithes of the Parish wherein they serve the Cure. But for this read, *The poore Vicars Plea*, made by D. Ryves.

CHAP. IX.

*Of Churchwardens and Side-
men, and their
Office.*

Num. I.

What they
are, and
how they
are chosen
and sworn.

Churchwardens are Spiritu-
Call officers yearly chosen by
the Minister and Parishioners ac-
cording to the custome of the
place, and sworn to look to the
Church and Churchyard, and
the

New terms
of the Law.

Can. 89.

the things that doe belong to them, as also to mark the behaviour and manners of the people, to finde out, and present such faults as belong to the Jurisdiction of the Spirituall Court. It is appointed by the Canon, That the Churchwardens of every Parish be chosen by the joynt consent of the Minister, and the Parishioners together, if it may be: And if they cannot agree upon the choise, then that the Minister shal choose one, and the Parishioners another; and that without such a joynt or severall choise, none shall take upon them to be Churchwardens. But this notwithstanding, if there be a custome in a Parish time out of mind to choose their Churchwardens otherwise then the Canon is, it seems in this case they may continue their custome still. For it is provided by act of Parliament, That Canons and Constitutions Ecclesiasticall, that are repugnant

Stat. 25. H. 8.
cap. 19.

repugnant to the Laws and Constitutions of the Realme, or the Kings royall Prerogative, shall not binde, and therefore are not to be regarded. And in this case therefore they are to be chosen according to the custome of the place. But which way soever they be chosen, care must be had what manner of persons are chosen, for it seems as needfull there should be fit men chosen to this office, as to the office of a constable, and therefore that some respect must be had to the qualifications required to make a man a fit Constable in the choise of these officers also. And these officers after they are chosen are to be sworn by the Ordinary of the Diocesse: And if he shall refuse to give them their Oath, he may by authority out of the Kings Bench be compelled thereunto. And sworn they must be, for untill then, they are not compleat Churchwardens, neither

See before c.
I. Num. 2.

Bro. Gardein
deglife. I.

Can. 118.

Gan. 90.

ther have they any thing to doe
in the duties of their office. And
they are to continue in their of-
fice one year, and no longer ex-
cept there be a custom for longer
time, and except they be chosen
again in the same manner, for
these officers are to bee chosen
new every year. And the Ca-
non is, That the office of all
Churchwardens, and Sidemen
shall be reputed to continue until
the new Churchwardens that shall
succeed them be sworn, which
shall be the first week after Easter,
or some week following accor-
ding to the direction of the Or-
dinary: And then before the new
Churchwardens are sworn, the
old Churchwardens are to pre-
sent the things that have happe-
ned in their time.

The Sidemen or Questmen *Num. 2.*
are those that are yeerly chosen, Sidemen
according to the custome of the Questmen
parish to assist the Churchwar- what they
dens in their inquiry and Pre- are.
sentment

sentment of such offenders to the Ordinary as are punishable in the Christian Court. And herein it seems the course is at this day in some places to choose and sweare the old Churchwardens to this office, for when the new Churchwardens are sworn, and the old discharged, the course is to swear the old Churchwardens againe to be ayding and assisting to the new Churchwardens: And in other places they choose others amongst the meaner sort of the people. And these officers also by the Canon are to be chosen and made yearly in the Easter week by the Minister and Parishioners of the Parish, if they can agree, or otherwise by the Ordinarie of the Diocesse. And being thus chosen and sworn they are by the Ecclesiasticall Laws to see to the manners of the people, and to present the misdemeanors of the Parishioners, as far forth as the Churchwardens are. For

For the discovery of the office *Num. 3.*
 and duty of these officers, viz. Their of-
 of the Churchwardens, it must be fice and
 known. That for some things, duty.
 belonging to their office, they
 have a power and charge therein
 by the ancient Common Law :
 And for other things belonging
 to their office, they have a power
 and charge therein by certaine
 acts of Parliament newly made,
 that herein therefore have enlar-
 ged their office : And for other
 things belonging to their office,
 they have a power and charge
 therein by the Ecclesiasticall
 laws. And in these last sort of
 things onely, it seems the Side-
 men have to doe to joyn with the
 Churchwardens, and not in any
 of the former things. By the
 ancient common Law, the office
 of the Churchwardens doth con-
 sist in these things.

I They must take care they
 see to and preserve the goods of
 the Church, viz. the bookes, such as are
 Com-provided.

37 H. 6. 30.

11 H. 4. 12.

8 Ed. 4. 6. F.

N. B. 91. K.

11 H. 7. 27.

12 H. 7. 10. F.

N. B. 54.

12 H. 7. ult.

In Provi-
 ding such
 goods for the
 Church as
 are wanting
 and in pre-
 serving
 such as are
 Com-provided.

Communion Cups, Linen cloths, and other decent ornaments and furniture of the Church, which they doe finde there, when they enter into their office. And if there be any lack in these things, they are to see and provide them, and being provided to preserve and keep the same also. And for this purpose (in favour of the Church and the better to enable them herein) the law doth make of them a kinde of Corporation, viz. Persons enabled by that name to take moveable goods or Cattels, and to sue, and be sued at the Law concerning such goods for the use and profit of their Parish : for the property of the goods of the Church is in them , and they are by that name enabled to take them, and to sue and be sued for them, for the use and profit of the Parish. And therefore they may have and enjoy goods to the use of the Church. And a man may well
in

in his life time, or by his last will give or grant mony, or other moveable things to the Churchwardens, or to the Parishioners of a Parish, for the reparations of the Church, or for the buying of Books, Communion Cups, linnen Cloths, or other decent Ornaments, or furniture for the Church. And this kinde of gift is so much favoured in Law, that it is not needfull in such a gift to have any writing, or words at all. For if a man doe but buy a Bell, and hang it up in the Steeple, or make a Pew, and set it up in the Church, and doe make no words or writing hereof; by this the Bell and the Pew are so dedicated and given to the Church, that the partie that did owe them, can never have them againe. And if any Goods or Cattels, be devised to the Church, and be kept from it, the Churchwardens may by suit in the Spirituall Court recover it. And yet by the common

Y. Law

Law they have no action to recover a Legacy or other thing the which they never had in possession. But if the Churchwardens be once possessed of any goods or ornaments belonging to the Church, and afterwards the same things be taken from them, they shall have the same remedy for these things, as other men have for the goods that are taken from them. And therefore if such goods be stolen, the Churchwardens may have an appeale of robbery against the taker for them, and if they be otherwise taken away or abused, as if a Bell be broken, or the like, they may have an action of Trespasse against him that doth it; albeit he be the Parson, or Vicar himselfe: And in this action, they shall recover damages to the use and benefit of the Parish, and not to their owne use. Also it seems the party that doth take away any goods belonging to the Church

Church may be punished for it, as for a Sacrilegious offence. *Fitz. Prohibition* 14. And if those Churchwardens from whom the goods be taken, do die, or be out of their office, their Successors (as some thinke) may sue for and recover them, or the dammages for them. Or if these Churchwardens may not, yet the old Churchwardens may sue for, and recover the same. And if any thing have been used time out of minde to be paid towards the Church, and it bee now withheld, the Churchwardens may sue for the same in the Spiritual Court. But as touching any estate of Lands, or the profits of any lands, the Churchwardens are not to meddle at all, insomuch that if the wals, windows, or doors of the Church be broken down, or the trees in the Churchyard cut down, or the grasse thereof be eaten up, the Parson or Vicar, and not the Churchwardens, shall

Y 2 have

have an action for it, for the Churchwardens are a Corporation only as to moveable goods. And therefore they may not take Estates of Lands to them by name of Churchwardens onely in fee-simple, for life, or years, to the use of the Church. And if a feoffement be made of land to any others to the use of the Parishioners, or to the use of the Churchwardens of a Parish by these names, this is a void use, and they shall not have the Land by this conveyance.

In making
of Reparations.

Church.

2 They must take care for and looke unto the body of the Church and the Tower, that the same bee sufficiently repaired, kept and maintained, and that if any of the Ornaments therein appointed for the worship of God, be decayed, that they be repaired againe (for there must be alwaies in a readinesse all things necessary for the Preaching of the Word, Administration of the Sacraments,

Can. 8j.

ments, saying of Prayers, and for the whole divine Service:) And they are to see also that their Bels be in case and fit for use. And herein also the Ecclesiasticall Jurisdiction will take hold of them. For it is required by the Canon, That the Churchwardens doe take care and provide that the Churches be well and sufficiently repaired, and so from time to time kept and maintained, that the windows be well glazed, and that the floors be kept paved, plain and even, and that all things in the Church bee in such an orderly, and decent sort without dust, or any thing that may be either noisome or unseemly, as best becommeth the house of God. And by the same Canon it is appointed, that they take care that the Churchyard be well and sufficiently repaired, fenced, and maintained with walls, rails, or pales, as have been in each place accustomed, at their char-

Chancell.

ges unto whom by law the same appertaineth. But if the Chancell (the which in most, if not in all places is to be repaired by the Parson) or any Isle in the Church the which any man doth claime by Prescription to himselfe or his house in particular, be in decay, the Churchwardens are not bound to repaire this.

In disposing of the seates.

3 They are to order the seates ^{15 H. 7. 27.} in the Church, and to appoint every man and woman where they shall sit. And yet if any man have an Isle, or a seat in an Isle, or by-place out of the Body of the Church, unto which he can make a right by Prescription, as that which time out of minde hath belonged, or appertained to his house; in this case neither the Churchwardens, nor any other may put him out of it. And albeit a man cannot prescribe to have a Seat in the Body of a Church, as belonging to his house, yet if the case be so that

Prescription.

a man hath time out of mind had such a Seat, or Seat place in the body of a Church, as appertaining to his house; the Churchwardens, or the Ordinary may not without very good cause remove him.

Co. 5. 66, 67.
See Cap. 6.
part. 3.

4 They may and must, to enable themselves to execute their office in the particulars aforesaid, make rates and taxes upon the Parishioners for the raising of money. And as touching this point these things are to be known.

In making
and levy
ing of rates

1 That rates are not to be made for the raising of money, before there be need. And therefore a rate may not be made for the reparation of a Church before the same have need of reparation.

2 When there is need to make a rate, and a rate is to be made, the Churchwardens are first of all to give publike notice in the Church what day and time they

Notice.

Y 4

will

will meet in the Church to make the same.

3 It seems the rate is not good except it be made before, and with the assent of the greater part of the Parishioners present. Howbeit it seems reasonable, that if the Parishioners after such notice given will not come, or coming will not agree to the rate; that in this case the Churchwardens alone without any of the other parishioners may make the rate.

4 The rate must be equall, it must be therefore upon every Parishioner, and not upon some of the Parishioners only; and it must be upon every of them equally, viz. according to the quantity and qualitie of their estates, and lands within the parish; wherein they may rate by the yard, acre, or otherwise as they thinke fit, so as it be equall, and according to the true value in an equall proportion.

5 If

5 If a man of another Parish occupy lands in that Parish of his owne, in this case the Churchwardens of that Parish wherein his land lyeth may rate him for the Church paiment to that Parish, according to the value of his land; and this albeit there be no house upon it, and albeit the owner and occupier dwell in in another Parish, for as to this purpose, he shall be said a Parishioner, and therefore hee may if he please come to, and frequent the Church of that Parish, as the Church of the Parish, wherein he lives. And where the Landlord and Tenant both doe live out of the Parish, it seems the Churchwardens may rate either of them at their election. [But some hold that in these and such like cases, the rate must alwayes be upon the occupier of the land, and not upon the Landlord] Howbeit in case where the Farmer or occupier of the lands

Parishio-
ner.

lands doth live within the Parish where the rate is made, there he only, and not the Landlord shall be rated; for the Tenant is to be rated for the whole value of the land, and therefore the Landlord is not to be rated againe for the Rent he doth receive out of the land, for then the land would be twice rated, and in this case there is a Parishioner and Inhabitant chargeable; and receipt of Rent out of the Parish for land within the Parish by a man that lives in another Parish, will not make him a Parishioner. And yet in case, where the Landlord and Tenant both live within the Parish, where the rate is made, there perhaps the Churchwardens may rate which of them they please, yet so as they be not both rated for the same thing. But a man that doth neither dwell within the Parish nor hath land within the Parish, cannot be rated at all towards the Church,
and

and therefore if a Butcher come thither (being a market Town) to sell meate, and have a fixed stall there, this will not make him a Parishioner, or chargeable to the Church.

6 After the Rate is so made, it must be put in writing: And then it will be good to have the hands of the Churchwardens, and so many of the Parishioners hands as are agreeing unto it.

7 If any man rated, refuse to pay his Rate, the Churchwardens may by suite in the Spirituall Court compell him thereunto.

8 And if any man rated, finde himselfe grieved with the Rate, and thinke himselfe to be over-rated, he hath no way to be relieved, but to abide a Suite in the Spirituall Court, and there to set forth by way of defence the unreasonable and inequalitye of the Rate, and there the matter will be determined.

5 The

Churchwardens,

Account.

Minister.

5 The last thing these Officers are bound by the Common Law to doe, is, to give up a true and perfect Account of all their Receipts and disbursements in the time of their office. The which they must doe to the Minister, and the succeeding Churchwardens, and not to the Ordinary: And this if they refuse to doe, the succeeding Churchwardens may compell them unto by an Action of Account, which they may have against them at the Common Law: or they may compell them to account before the Ordinarie by his Jurisdiction. And this is well explained by the Canon in these words. All Churchwardens at the end of their yeere, or within a moneth after at the most, shall before the Minister and the Parishioners give up a just account of such money as they have received, and also what particularly they have bestowed in reparations, and other-

Hil. 16. Jac.
Curia. B.R.

Can. 89.

therwise for the use of the Church. And then going out of their Office, they are also truly to deliver up to the Parishioners whatsoever money, or other things of right belonging to the Church or parish they have in their hands, that it may be delivered over by them to the next Churchwardens by Bill indented. But these officers have no such property in the goods of the parish, as thereby to have power to give, sell, release, hurt or impair them. For they are Officers put in trust for the behoofe of the Parish, and therefore have no power in the goods of the parish, but for the good and profit of the parish. And if therefore they shall doe so, or otherwise unprofitably waste, or misemploy the goods of the Parish, the Parishioners may remove them before their time be expired, and make choice of new Churchwardens. And these new Churchwardens

F.N.B. 9 I. k.

3 Ed. 4. c.
26. H. 8. c.

wardens, may by an Action of Accompt at the Common Law compell them to give a reckoning of, and to answer for their doings during the time of their office, and if they have done the Parish any wrong, to make amends and satisfaction for the same to the use of the parish for the harme it hath received by their default. And albeit there be a custome within the parish, that the Churchwardens shall continue in their office by the space of one whole yeare, two yeers, or more (as in some parishes it is) yet in case of such misdemeanor found in them as before, the parishioners may at all times proceed to a new election of Churchwardens, and remove the old Churchwardens, for otherwise they have no remedie by our Law. And in this Account, and the former Account also made at the end of their year, the old Churchwardens shall have

Allowan-
ces.

have allowance of all the needfull summes of money, or other things which they have expended either upon the reparations of the body of the Church, Tower, or Bells, or for the providing of meet and necessary ornaments for the Church and Parish, because they are compellable by the Ecclesiasticall Lawes, so to lay forth the goods of the parish committed to their custody and charge. And they shall also have allowance upon their Account of the money paid by them for reliefe of the Prisoners in the common Gaole, by vertue of the Statute of 14. Eliz. cap. 5. And they shall also have Allowance of whatsoever other thing they are by Law chargeable to lay forth, for all this is to be allowed unto them upon their Account.

4 And now having dispatcht the Duty and Power of these officers commanded and given them by the ancient Common Law,
we

we come to see wherein their office enlarged by diverse Acts of Parliament doth consist. And this we shall finde to be in these particulars following.

Against him that doth disturbe a Minister, or abuse the Sacrament.

1 It is by one Law provided, Stat. 1. M. cap. 6. See before, cap. 1 Num. 18. That if any of his owne authority shall willingly, and of purpose, by open and overt word or deed, maliciously, or contemptuously molest, vex or trouble, or by any other unlawfull wayes or means disquiet or misuse any Preacher or Minister lawfully authorized in his preaching or Sermon, or in his saying of Divine Service: or shall contemptuously, maliciously, or unlawfully of his owne Authoritie abuse, pull downe, deface, or otherwise unreverently handle or order the most blessed and comfortable Sacrament of the Body and Blood of our Saviour JESUS CHRIST, being in any Church or Chappell: or unlawfully and maliciously of his owne authoritie shall break

breake downe, deface or spoile any Crosse in any Church, Chappell, or Church yard; That then every such offender, his Aydors, and Abettors immediately after the said act done shall be forthwith arrested and apprehended by any one of the Constables or Churchwardens of the place where the offence is done, or by any other person then and there present, when and where the offence is done: who is in convenient time to carry the same offender before some Justice of Peace to the end that there may be further proceeding against him according to the Statute.

Stat. 1 Eliz.
cap. 2. Jac.
cap. 4.
See before
Num. 5. part.
13.

2 It is provided by another law, That all persons inhabiting within the Kings dominion shall diligently and faithfully (having no lawfull or reasonable excuse to be absent) endeavour themselves to resort to their Parish Church or Chappell accustomed, or (upon reasonable let

Against them that come not to Church,

Z thereof)

thereof) to some usuall place where common Prayer, and such service of God as is contained in the booke of common Prayer shall be used in such time of let, upon every Sunday, and other dayes ordained to bee kept and used as holy dayes. And then and there shall abide orderly and soberly, during the time of the common Prayer, Preaching, and other Service of God, there to be used and ministred, upon paine of punishment, by the censures of the Church, and also upon paine, that every person so offending, shall forfeit for every such offence twelve pence, to be levied by the Churchwardens of the Parish where the offence shall be done to the use of the poore of the same parish, of the goods, lands and Tenements of such an offender, by way of distresse. So that the Churchwardens by these Statutes are bound upon a warrant from one Justice of Peace, to levy

to the use of the poor by distresse
and sale of the offenders goods
(rendring to him the overplus of
the money) all such moneys so
forfeited and charged upon him
to levy as aforesaid.

3 It is provided by another ^{Against} law, That if any one shall (with- ^{them} out lawfull licence) eate any flesh ^{that eate} upon any dayes now usually ob- ^{meat Fast-} served as Fifth dayes [*The which,* ^{ing dayes.} *as it seems, are Fridaies and Sater-* *daies in every weeke in the yeere but* *in Christmas, and in the Easter* *week, and the foure Wednesdaies in* *the foure Ember weekes,]* he shall
forfeit twenty shillings for every
time he so doth, or one moneths
imprisonment without baile or
mainprise. And every person in
whose house the same shall be ea-
ten, and knowing thereof and
not disclosing it to some officer
that hath power to pñish it, shall
forfeit for every such offence
thirteen shillings foure pence :
And the one third part of these

forfeitures shall goe to the poore of the Parish where the offence is done : And they are to be levied by the Churchwardens of the Parish by warrant from the Justices of Peace, &c. So that by this Statute, if any such warrant be directed to these officers ; they are to execute the same.

License.

And it is further also provided by the same law, that the license for eating of flesh to be given to any person for notorious sicknes, by the Bishop of the Diocese, or by the Minister of the Parish, ought to be registred (if the sicknesse shall continue above eight dayes after such licence granted) in the Church booke ; and this must be done with the knowledge of one of the Churchwardens there : And the party licensed is to give to the Minister, for the entry thereof, foure pence.

About the
Poore.

4 They are to joyne with the Overseers of the poore in the execution of their office throughout

See cap. 6.
throughout.

out, for they have an equall authority and charge with them in the execution of their whole office. Nay these in truth are the principall officers in this office, and the Overseers are but Assistants to them, for so are the words of the Law, *that they shall be joyned with the Churchwardens, &c.*

stat. 1 Jac. c.
27.

5 It is provided by another ^{Against} law, That if any man shall shoot ^{them that} at, kill, or destroy, with any ^{kill Phe-} Gun, crosse Bow, stone Bow, or ^{sants, Hares} long Bow, any Pheasant, Partridge, ^{&c.} Houfedove, or Pigeon, Hearn, Mallard, Duck, Teale, Wigeon, Growse, Heathcock, or any such fowle, or any Hare; or shall take, kill, or destroy, any Pheasant, Partridge, Houfedove, or Pigeon, with setting Dogs, or Nets, or with any manner of engines, snares, or instruments whatsoever: or shall take out, or willingly spoyle in the nest, the Eggs of any Pheasants, Partridges, or

Tracing of
Hares.

of Swans : or shall trace, or course
any Hare in the snow : or destroy
any Hare with any Harepipes,
Cords, or any such Instruments;
and he be convict thereof by two
witnesses, or his own confession
before two Justices of the Peace,
he is to be sent to the common
Gaole, there to be without baile,
or mainprise, except he doe
forthwith pay to the Church-
wardens of the place, where the
offence is committed, or party
apprehended to the use of the
poore there twenty shillings
for every fowle, or Hare, or egge
so killed, or willingly destroyed.
And by another branch of this
Statute, it is provided, That if any
man (not having lands of some
estate of inheritance in his own
or his wives right, of the value of
ten pound by the yeare, or more,
or of thirty pound by the year
or more, for the terme of life, or
lives, or not being possessed of
Goods or Chattrells to his own
use

use to the value of two hundred pounds, or more, or not being the sonne of a Knight, or Baron of the Parliament, or one of higher degree, or the sonne and heire apparant of an Esquire) shall have or keepe any Gray-hound for coursing of Deer, or Gray-Hare, or setting Dog or Doggs, hound. or Net or Nets, to take Pheasants or Partridges, and be thereof convict before the Justices as aforesaid; he must forthwith pay to the Churchwardens of the place where the offence is committed, or party apprehended, to the use of the poore of the Parish forty shillings, or else be imprisoned for three moneths without baile or mainprise. So that now the Churchwardens in these cases have nothing to doe, but to receive the money, if it be tendred unto them, and then to see it employed to the use of the poore of the Parish.

See it in cap.
7 Numb. 31.

6 They are to joyn with the

Z 4

Con-

In levying
of money
upon rates

For prisoners in the Kings bench and Marshalsey.

Constables to rate the whole Parish towards the payment of the rate of the Justices of Peace for the reliefe of the Prisoners in the Kings Bench and Marshalsey, and to collect, and pay the same to the high Constables of the Hundred, once every quarter under pain to forfeit ten shillings for every default.

For Mariners and maimed Souldiers.

7 They are to joyn with the Constables to rate the whole Parish towards the payment of the Justices rate for the reliefe of the poore Mariners, and maimed Souldiers, and to collect and pay the same to the high Constable, ten dayes before every quarter Sessions, under paine to forfeit twenty shillings for every default.

See it in cap. I. Numb. 32.

For prisoners in the common Gaole.

8 They themselves are to levy the rate and tax made by the Justices for the reliefe of the prisoners in the common Gaole, and to pay the same quarterly unto the high Constable under pain of five

See it in cap. I. Numb. 51.

five pound ; And this if they doe pay before they doe levy it, it is to be allowed them again upon their account.

See it in cap.
1. Numb. 29.

9 Where an offender that is committed to prison, hath not goods sufficient to defray the charges of conducting him thither, the Constables and Churchwardens, and two or three of the Parishioners, may make an indifferent rate for the same. And any one of them by warrant from the Justice of Peace that did commit the offender, may levy the same on the goods of the offender.

To carry a
prisoner to
Gaole.

See it in cap.
1. Numb. 42.

10 They are to joyne with the Constables and Overseers of the poore, to execute the warrant of the Justices of Peace, against Swearers.

Against
Swearers.

See it in cap.
1. Numb. 41.

11 They are upon warrant sent to them, to levy the forfeitures and penalties for the breach of any of the Laws against Drunkards and Drunkenesse : And they

Against
Drunkards

they are then also to see that they doe imploy the same to the use of the poore of the place.

Against
prophaners
of the
Lords day.

12 They are upon warrant sent to them, to levy the forfeitures of all those that doe prophane the Lords day, and then to deliver over the same to the Overseers of the poore of the Parish.

See it in cap.
1. Numb. 43.

Against
them that
destroy
fish.

13 They are to joyn with the Constables to execute the warrant for the levying of forfeitures against them that destroy Fish, &c.

See it in cap.
1. Numb. 45.

Poore.

14 They are to joyn with the Constables, the Minister, and the Overseers of the poore (in those places where any money is given for the placing of poore Children Apprentices) for the imployment of the same accordingly.

See it in c. 63
Numb. 2. part.
13.

To choose
Survaiors
of High-
waies.

15 They are to joyn with the Constables in the choosing of Supravisors for the highwaies, and in the setting down of dayes for the

See it in cap.
51 Numb. 1.

the worke, and in the oversight of the high Constables account for the moneyes they doe receive by any forfeitures.

See in cap. I.
num. 59.

16 They are to joyne with the Constable in the presenting of popish Recusants.

Recusants.
Present-
ment.

See in cap.
8. num. 59.

17 They may give notice to such as maintaine, or retaine in house, or otherwise any person that doth obstinately refuse to come to Church. And so much concerning their office by the Statute Lawes.

5 In the last place, wee come to that part of their office which hath relation to the Ecclesiasticall Jurisdiction; and the which (as it seems) doth appertaine to the Churchwardens and Sidenen both, consisting in these particulars following.

Can. 19.

1 The Churchwardens and Sidenen are not to suffer any idle persons to abide either in the Church yard, or Church porch, during the time of Divine Service,

Persons
standing
without
the Church
the time
Divine
Service.
vice,

vice, or Preaching: but shall cause them either to come in, or to depart.

Bread and
wine for
the Com-
munion.

2 They must against every Can. 20.
Communion, at the charge of
the parish, with the advice and
direction of the Minister, pro-
vide a sufficient quantitie of fine
white bread, and of good and
wholesome wine, for the number
of Communicants that are from
time to time to receive there, and
bring the same to the Table in a
cleane and sweet standing Pot or
Stoope of pewter, if not of purer
metall.

Persons
comming
to the Co-
munion,

3 They are to marke whether Can. 22.
all the Parishioners doe come to
receive the Communion three
times every yeare: and whether
any strangers come often and
commonly from other Parishes
to their Church; and shall shew
their Minister of them, lest per-
haps they be admitted to the
Lords Table amongst others:
which they shall forbid, and send
such

such home to their own Parish-Churches and Ministers, there to receive the Communion with the rest of their neighbours.

4 They are not to suffer any Strange man to preach within their ^{preachers.} Churches & Chappels, but such as by shewing their License to preach, shall appeare unto them to be sufficiently authorized thereunto.

Can. 50.

5 And that the Bishop may understand (if occasion require) what Sermons are made in his Diocesse, and who doe presume to preach without License, they must see that the names of all Preachers which come to their Church from other places be noted in a Booke, which they must have ready for that purpose, wherein every Preacher must subscribe his name, the day when he preached, and the name of the Bishop of whom he had License to preach.

Can. 52.

6 If any Preacher shall ex-^{Contentious}pressly ^{ous pre-}aching.

preſſy preach againſt any thing delivered by any other Preacher in the ſame or any other Church neere adjoyning, before he hath order from the Biſhop ſo to doe, whereby contention is like to grow; theſe officers muſt forthwith ſignifie the ſame to the Biſhop, and not ſuffer the Preacher to preach any more there untill the Biſhop ſhall take order therein, except the Preacher ſhal faithfully promiſe to forbear all ſuch matter of contention untill the Biſhop hath ſo done.

Non-preaching Miniſters.

7 None may reſuſe to receive either of the ſacraments of a non-preaching Miniſter, nor for that cauſe may they reſort to other Churches to receive the ſame there: and if any doe ſo, they may and muſt be preſented by theſe officers. Can. 57.

A Booke to ſet down Chriſt-mas, Burials, &c.

8 A Booke of parchement is to be provided at the Pariſh-charge: And therein theſe officers are to ſee, that there be fairly ſet down the Can. 70.

the day and yeere of every one Christned within their Parish, and the names of the parties, and of their parents; and the day and yeer of all the weddings and burials, with the parties names of all that are married, and dye within the Parish. And for the safe keeping of this book, the Church wardens must at the charge of the Parish provide one sure coffer with three locks and keyes, one for the Minister, and two for the two Churchwardens. And every Sunday after morning or evening prayer, the Minister in the presence of the Churchwardens, must set down the names of all such persons christned, married, and buried the week before. And the Minister and Churchwardens must set their names to every leafe of the same Booke when it is full: And the Churchwardens must once every yeare, within one moneth after the 25. day of March, transmit unto the Bishop

Minister. }

Bishop of the Diocesse a true copy of the names of all the persons christned, married, or buried in the Parish, in the year before (ended the said 25. of March) and the certaine dayes and moneths in which every such Christning, Marriage, and Buriall was had, to be subscribed with the hand of the Minister and Churchwardens, that the same may be preserved in the Registry of the Bishop; the which they must receive without fee.

Minister
forfaking
his calling.

9 If any Deacon or Minister shall voluntarily relinquish his Calling, or live as a Lay-man, the Churchwardens must present his name to the Bishop of the Diocesse.

Can. 7th

Booke of
Common
prayer.
Bible.
Book of
Homilies.
Fontstone.

10 The Churchwardens are to take care, to get, and keep (at the Parish charge) the booke of Common Prayer, of the last Edition; the Bible of the largest volume; and the Books of Homilies allowed by authority: and a Font stone

Can. 80, 81,
82, 83, 84.

and Sidemen.

stone, where it hath usually been
for the Baptizing of Children: C
And a convenient & decent Table nion Ta
for the celebration of the holy ble.
Communion: And that the same
be covered at the time of Divine
Service with a Carpet of silke or
other stuffe; And when the Sa- Carpet-
crament is to be administred cloath.
thereupon, that the same be plac-
ed in the Church or Chancell so
as the people may the more in
number, and the more conveni-
ently communicate: and that
there be a faire linnen cloth upon
it: And that the ten Command- Ten Com-
ments be set up upon the East end mande-
of every Church and Chappell ments.
where the people may best see and
read the same: And that other
chosen sentences be written upon
the walls of the Church or Chap.
in places cōvenient: And likewise
thara convenient place be made
for the Minister to read Service
in: And that a comely and de- Pulpit
cent Pulpit be made and set in

Churchwardens,

convenient place, at the discretion of the Ordinary (if any question arise about it) for the Preaching of the word: And also that there be a little Chest fastned in some convenient place in the Church, with three locks and keys, one for the Minister, and two for the Church-wardens, for men to put in their almes; The which they with the Minister must yeerly, or oftner (as they have cause) open and distribute the money therein to the poore of the Parish, in the presence of six or more of the Parishioners. Chest.

Can. 88.

11 The Church-wardens and Side-men must not suffer playes, in the feasts, banquets, suppers, Church-ales, drinkings, temporall Courts or Leets, lay-Juries, Musters, or any other prophane usage to be kept in the Church, Chappell, or Church yard: neither the Bells to be rung superstitiously upon Holy dayes or Eves abrogated by the booke of Common Prayer, Plaies, &c.
Church.
Ringing
of Bells.
nor

and Sidemen.

nor at any other time, without
cause to be allowed by the Mini-
ster and these Officers.

Minister.

Can. 85.

12 They are to see that Peace
be kept in the Congregation in e-
very meeting thereof : and that
persons Excommunicate, and that
are denounced so, be kept out of
the Church.

Distur-
bance in
the Con-
gregation.
Persons
Excom-
municate.

Can. 90. See
above, Num.
4. part 2.

13 The Church-wardens and
Side-men are to see that all the
Parishioners duly resort to their
Parish Church upon all Sundaies
and Holy-dayes, and there con-
tinue the whole time of Divine
Service; and none to walke, or
stand idle, or talking in the
Church, or Church-yard, or
Church-porch during that time.
And all such as shall be slack and
negligent in resorting to the
Church (having no great or ur-
gent cause of absence) they must
earnestly call upon them; and af-
ter warning, if they amend not,
they must present them. And if
Church-wardens or Side-men

Coming
to Church

A a 2 offend

Churchwardens,

offend in any of these particulars, they may be punished by Ecclesiasticall censures.

Present-
ment.

14 And lastly, these Churchwardens and Side-men (being required by the Ecclesiasticall Judge) are upon their Oath to make a true and perfect Presentment unto him upon all such Articles (grounded upon the Lawes and Canons Ecclesiasticall) as shall be given them in charge: wherein these things are to be knowne;

1 That the persons and things they are to present, and are commonly given in charge unto them, are such as are publike offences and offenders: As such as shall speake against the Kings Supremacy, or against the Church of England, or against the worship of God, Articles of Religion, Rites and Ceremonies, or government Ecclesiasticall established therein; such as are Schismatikes, or keep Conventicles; Ministers, for

Can. 109.
110. 111.
112.

for any misbehaviour about the worship of God, (not using and observing therein that reverence and order that is required) or otherwise in their habit or carriage; The people, for any irreverence, irregularity, or misdemeanour about the worship of God; The former Church-wardens for any neglect in their Office; All men for drunkenness, ribawdry, usury, adultery, incest, swearing, and such like wickedness of life: And against these, or some of these, and such like as these are, are these Articles alwayes directed.

Experience. 2 Where there are Side-men, these Side-men are alwayes to joyne with the Church-wardens in their Presentment.

Can. 115. 3 They may present any man Common upon a common fame onely for Fame. the crimes of Adultery, Incest, or the like, without any more knowledge of the thing; And none of their sayings or writings in this

case, in the course of their Presentment, albeit the thing presented be false, may be punished by an action of the Case for a slander Co. 4. 14. upon them.

Action of the Case. 4 They are to have a Book of Can. 119. Articles before-hand, and a convenient time to make their Presentment.

5 The old Church-wardens Can. 118. and Side-men are to make their Presentment before the new be sworne.

6 They are not to be compelled to present oftner than once a yeere, where it hath been no oftner used; nor above twice a yeere in any Diocesse whatsoever, except it be at the Bishops Visitation; and one of these times must be when they goe out of their office at Easter. But voluntarily they may present as oft as they will; Neither may they be cited to make more Presentments than as aforesaid, but in case where their former presentment is imperfect
or

Can. 26.

or ambiguous to cleere or exp-
plaine it, or where they have pur-
posely omitted known crimes in
case of perjury. And the Regi-
ster is to receive in one yeere, but
4^d. for the Presentments of the Perjury.
Parish. And in this Presentment,
these officers must take heed of
Perjury, in neglecting or refu-
sing to present such crimes, as
they know have been committed,
for if they shall so doe, they may
be grievously punished by the
Ordinary in the Spiritual Court,
or otherwise they may be punish-
ed in the Starre-Chamber, or
High-Commission Court.

F I N I S.

Exas
11/35/13